

2967

No. 15077

United States
Court of Appeals
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,
vs.

ESSEX WIRE CORPORATION, a Corporation,
Doing Business as ESSEX WIRE CORPO-
RATION OF CALIFORNIA,
Respondent.

Transcript of Record

**Petition for Enforcement of an Order of the
National Labor Relations Board**

FILE

SEP -5 1956

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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APPEARANCES

MARCEL MALLET-PREVOST,

Assistant General Counsel,

National Labor Relations Board,

Washington 25, D. C.,

For Petitioner, National Labor
Relations Board.

HOLT, MACOMBER & GRAHAM,

WILLIAM H. MACOMBER,

San Diego Trust & Savings Building,

San Diego 1, California,

For Respondent, Essex Wire Corp.

Form NLRB-501.

United States of America
National Labor Relations Board

CHARGE AGAINST EMPLOYER

Case No. 21-CA-1921.

Date Filed: 2/12/54.

Compliance Status Checked by:

Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with section 9 (f), (g), and (h) of the National Labor Relations Act.

Instructions—File an original and 4 copies of this charge with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

1. Employer Against Whom Charge Is Brought:

Name of Employer: Essex Wire Corporation of California.

Number of Workers Employed: 300.

Address of Establishment: 1305 Harbor Drive,
San Diego, California.

Type of Establishment: Factory.

Identify Principal Product or Service: Automotive wiring.

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8 (a), subsections (1) and (3), of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the act.

2. Basis of the Charge:

The Company discharged Romaldo Baca, Jr., on or about December 12, 1953, and Ann Hamilton on or about February 11, 1954, for the purpose of discouraging membership in United Mine Workers of America, District 50.

By these acts and by other acts and statements, the Company has interfered with the rights of employees guaranteed in Section 7 of the National Labor Relations Act, as amended.

3. Full Name of Person Filing Charge:

Ann Hamilton.

4. Address: 1219 - 17th Street, San Diego, California.

Declaration

I declare that I have read the above charge and

that the statements therein are true to the best of my knowledge and belief.

By /s/ ANN HAMILTON,
An Individual.

February 12, 1954.

Admitted in evidence as General Counsel's Exhibit No. 1-A, August 2, 1954.

United States of America
Before the National Labor Relations Board

Case No. 21-CA-1921

In the Matter of:

ESSEX WIRE CORPORATION OF CALIFORNIA

and

ANN HAMILTON, an Individual.

COMPLAINT

It having been charged by Ann Hamilton, an individual, that Essex Wire Corporation of California, hereinafter called the Respondent, has engaged in, and is engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, Public Law 101, 80th Congress, First Session, hereinafter called the Act; the General Counsel of the National Labor Relations Board, on behalf of the Board, by

the Acting Regional Director for the Twenty-first Region, designated by the Board's Rules and Regulations, Series 6, as amended, Section 102.15, hereby issues this Complaint and alleges as follows:

1. Essex Wire Corporation of California, hereinafter called the Respondent, is engaged in the manufacture and sale of wire products at plants in Anaheim and San Diego, California. During the 12-month period ending June 1, 1954, the Respondent sold products manufactured at its plant in San Diego, California, in the value of in excess of \$100,000 to customers who, in turn, each sold their products in the value of in excess of \$25,000 annually to points outside the State of California. In addition, the Respondent sold in excess of \$100,000 in value of its products to customers directly outside the State of California.

2. The Respondent is, and at all times material herein, has been engaged in commerce within the meaning of the Act.

3. In the course and conduct of its business, as described in paragraphs 1 and 2 above, the Respondent, on or about January 14, 1954, posted a Company rule to the effect that no working or Company time could be used for union campaigning or organizational efforts.

4. Respondent, beginning on a date uncertain but approximately November 20, 1953, discriminatorily transferred Elizabeth Ann Hamilton, hereinafter described as Ann Hamilton, from her regular

employment as a taping machine operator to various other employments of a more difficult and disagreeable character by reason of her concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection as defined in Section 7 of the Act, and caused her to leave the plant on or about February 10, 1954, by reason of such discriminatory work assignments, and used this occasion as the pretext for effecting her discharge.

5. Respondent, while engaged in its business as described in paragraphs 1 and 2 above, on or about February 11, 1954, did discharge Elizabeth Ann Hamilton, also known as Ann Hamilton, and does now refuse and fail to re-employ her for the reason that she engaged in concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection as defined in Section 7 of the Act.

6. (a) Respondent, by its officers, agents and employees, while engaged in its business as described in paragraphs 1 and 2 above, discriminatorily enforced its no-solicitation rule described in paragraph 3 above in the following regards:

(1) By the statement of General Foreman K. W. King to Ann Hamilton on or about February 8, 1954, directing her to remove her United Mine Worker Union button, hereinafter described as UMW button, on the grounds that it is campaigning, while not making the same requirement from

other employees wearing International Association of Machinists Union buttons, hereinafter called IAM buttons.

(2) By Foreman Milton W. Kresin, requiring Hamilton to remove the UMW button on February 10, 1954, while not making the same requirement from employees wearing IAM buttons.

(3) By General Manager M. J. Simon, on or about February 8, 1954, directing Gerald W. Pipmeier to remove his UMW button, and directing James C. Hamilton to remove his UMW button on or about February 10, 1954, while not directing IAM adherents to remove their IAM buttons.

(4) By the acquiescence of M. J. Simon to the circulation of petitions by the IAM supporters on company time in violation of the posted rule during late January and early February, 1954, and his acquiescence to circulation of cards or petitions by Goldie Riggins, known to him to be an IAM committeewoman, by which cards or petitions employees were urged to retract their designation of UMW.

6. (b) Respondent, by its officers, agents and employees, unlawfully enforced the no-solicitation rule described in paragraph 3 above in the following regards:

(1) By the demand of Foreman Casey that James A. Juhl turn over to Casey signed application or union designation cards on behalf of the UMW secured by Juhl during nonworking time

under penalty of discharge at a date not certain, but believed to be in the early part of January, 1954.

(2) By the statement of Simon to Juhl, at a date not certain, but believed to be approximately one week after the incident recounted in paragraph 6 (b) (1) above, that solicitation must not take place during rest periods because they are company time.

(3) By Simon warning Juhl on or about February 17, 1954, that he was campaigning on company time and property, which warning was directed to remarks which Juhl had made on February 16 to employees on nonworking time.

7. Respondent, by its acts, as set forth in paragraphs 4 and 5 above, did discriminate in regard to hire and tenure of employment of its employees and has thereby engaged in and is thereby engaging in unfair labor practices within the meaning of Section 8 (a), subsection (3) of the Act.

8. Respondent, by its acts as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, did interfere, restrain and coerce, and is interfering with, restraining and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act, and did thereby engage in and is thereby engaging in unfair labor practices within the meaning of Section 8 (a), subsection (1) of the Act.

9. The activities of Respondent, as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, occurring in connection with Respondent's operations described in paragraphs 1 and 2 above, have a close,

intimate and substantial relation to trade, traffic and commerce among the several states of the United States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

10. The activities of Respondent, as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, constitute unfair labor practices affecting commerce within the meaning of Section 8 (a), subsections (1) and (3), and Section 2, subsections (6) and (7) of the Act.

Wherefore, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Acting Regional Director for the Twenty-first Region, on this 17th day of June, 1954, issues this Complaint against Essex Wire Corporation of California, Respondent herein.

[Seal] /s/ GEO. A. YAGER,
Acting Regional Director, National Labor Relations
Board, Twenty-first Region.

Admitted in evidence as General Counsel's Exhibit No. 1-C, August 2, 1954.

Form NLRB-501.

United States of America
National Labor Relations Board

CHARGE AGAINST EMPLOYER

Case No.: 21-CA-2035.

Date Filed: 7/7/54.

Compliance Status Checked by:

Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with section 9 (f), (g), and (h) of the National Labor Relations Act.

Instructions—File an original and 4 copies of this charge with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

1. Employer Against Whom Charge Is Brought:

Name of Employer: Essex Wire Corporation of California.

Number of Workers Employed: Over 100.

Address of Establishment: 1305 Harbor Drive,
San Diego, California.

Type of Establishment: Factory and Assembly.

Identify Principal Product or Service: Automotive Wiring Assemblies.

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8 (a), subsections (1) and 8 (a) 3 and 8 (a) 4 of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the act.

2. Basis of the Charge:

On or about the date of June 4, 1954, I was discharged discriminately and without just cause and was interfered with and restrained in the exercise of my rights guaranteed in Section 7 of the Act. I was discriminated against in regard to tenure, terms and conditions of employment which tended to discourage my membership in a labor organization and was further discriminated against because of having given testimony under the Act.

3. Full Name of Party Filing Charge:

Lorraine Evans.

4. Address:

7439 Jamacha Road, San Diego, California.
Telephone No.: M-4-6206.

Declaration

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By /s/ LORAIN L. EVANS,
(Signature of Person Filing
Charge.)

Date:

Admitted in evidence as General Counsel's Exhibit No. 1-G, August 2, 1954.

United States of America
Before the National Labor Relations Board
Case No. 21-CA-1921

ESSEX WIRE CORPORATION, d/b/a ESSEX
WIRE CORPORATION OF CALIFORNIA,
and
ANN HAMILTON, an Individual.

Case No. 21-CA-2035

ESSEX WIRE CORPORATION, d/b/a ESSEX
WIRE CORPORATION OF CALIFORNIA,
and
LORAIN L. EVANS, an Individual.

ORDER CONSOLIDATING CASES AND
NOTICE OF HEARING

The General Counsel of the National Labor Relations Board having duly considered the matter and

deeming it necessary in order to effectuate the purposes of the National Labor Relations Act, as amended, and to avoid unnecessary costs or delay,

Hereby Orders, pursuant to Section 102.64 (b) of the National Labor Relations Board Rules and Regulations, Series 6, as amended, that these cases be, and they hereby are, consolidated.

Please Take Notice that on the 2nd day of August, 1954, at 10:00 a.m., D.S.T., in Room 324, Land Title Building, Third and Broadway, San Diego, California, a hearing will be conducted before a duly designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the First Amended and Consolidated Complaint attached hereto, at which time and place you will have the right to appear in person, or otherwise, and give testimony. Copies of the Charges upon which the First Amended and Consolidated Complaint is based are attached hereto.

You are further notified that, pursuant to Section 102.20 of the Board's Rules and Regulations, you shall file with the undersigned Acting Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and 4 copies of a verified answer to the said First Amended and Consolidated Complaint within ten (10) days from the service hereof and that unless you do so all of the allegations in the First Amended and Consolidated Complaint shall be deemed to be true and may be so found by the Board.

In Witness Whereof, the General Counsel of the National Labor Relations Board, on behalf of the Board, has caused this Order Consolidating Cases and Notice of Hearing and First Amended and Consolidated Complaint to be signed by the Acting Regional Director for the Twenty-First Region on this 21st day of July, 1954.

[Seal] /s/ GEORGE A. YAGER,
Acting Regional Director, National Labor Relations
Board, Twenty-First Region.

United States of America
Before the National Labor Relations Board

[Title of Cause.]

FIRST AMENDED AND CONSOLIDATED
COMPLAINT

It having been charged by Ann Hamilton, an individual, and Loraine L. Evans, an individual, that Essex Wire Corporation, d/b/a Essex Wire Corporation of California, hereinafter called the Respondent, has engaged in, and is engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, Public Law 101, 80th Congress, First Session, hereinafter called the Act; the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Acting Regional Director for the Twenty-First Region, designated by

the Board's Rules and Regulations, Series 6, as amended, Section 102.15, hereby issues this First Amended and Consolidated Complaint and alleges as follows:

1. Essex Wire Corporation, a Michigan corporation, hereinafter called the Respondent, is engaged in the manufacture and sale of wire products in various states of the United States including Michigan and California. At its San Diego, California, plant, where the unfair labor practices hereinafter described occurred, the Respondent, d/b/a Essex Wire Corporation of California, during the 12-month period ending June 1, 1954, manufactured and sold products valued at more than \$100,000 to purchases outside the State of California. During the same period the Respondent, considered as a multi-state chain, sold more than \$250,000 in value of its products which were shipped by it from its various plants to points outside of the state in which the plant in question was located. During the same period the San Diego plant sold more than \$200,000 of its products to firms in California, which products were ultimately shipped outside the State of California.

2. The Respondent is, and at all times material herein, has been engaged in commerce within the meaning of the Act.

3. In the course and conduct of its business, as described in paragraphs 1 and 2 above, the Respondent, on or about January 14, 1954, posted a Com-

pany rule to the effect that no working or company time could be used for union campaigning or organizational efforts.

4. Respondent, beginning on a date uncertain but approximately November 20, 1953, discriminatorily transferred Elizabeth Ann Hamilton, hereinafter described as Ann Hamilton, from her regular employment as a taping machine operator to various other employments of a more difficult and disagreeable character by reason of her concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection as defined in Section 7 of the Act, and caused her to leave the plant on or about February 10, 1954, by reason of such discriminatory work assignments, and used this occasion as the pretext for effecting her discharge.

5. Respondent, while engaged in its business as described in paragraphs 1 and 2 above, on or about February 11, 1954, did discharge Elizabeth Ann Hamilton, also known as Ann Hamilton, and did discharge Loraine L. Evans on or about June 4, 1954, and does now refuse and fail to re-employ them for the reason that they engaged in concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection as defined in Section 7 of the Act.

6. (a) Respondent, by its officers, agents and employees, while engaged in its business as described in paragraphs 1 and 2 above, discriminatorily

enforced its no-solicitation rule described in paragraph 3 above in the following regards:

(1) By the statement of General Foreman K. W. King to Ann Hamilton on or about February 8, 1954, directing her to remove her United Mine Worker Union button, hereinafter described as UMW button, on the grounds that it is campaigning while not making the same requirement from other employees wearing International Association of Machinists Union buttons, hereinafter called IAM buttons.

(2) By Foreman Milton W. Kresin, requiring Ann Hamilton to remove the UMW button on February 10, 1954, while not making the same requirement from employees wearing IAM buttons.

(3) By General Manager M. J. Simon, on or about February 8, 1954, directing Gerald W. Pipmeier to remove his UMW button, and directing James C. Hamilton to remove his UMW button on or about February 10, 1954, while not directing IAM adherents to remove their IAM buttons.

(4) By the acquiescence of M. J. Simon to the circulation of petitions by the IAM supporters on company time in violation of the posted rule during late January and early February, 1954, and his acquiescence to circulation of cards or petitions by Goldie Riggins, known to him to be an IAM committeewoman, by which cards or petitions employees were urged to retract their designation of UMW.

6. (b) Respondent, by its officers, agents and employees, unlawfully enforced the no-solicitation

rule described in paragraph 3 above in the following regards:

(1) By the demand of Foreman Casey that James A. Juhl turn over to Casey signed application or union designation cards on behalf of the UMW secured by Juhl during nonworking time under penalty of discharge at a date not certain, but believed to be in the early part of January, 1954.

(2) By the statement of Simon to Juhl, at a date not certain, but believed to be approximately one week after the incident recounted in paragraph 6 (b) (1) above, that solicitation must not take place during rest periods because they are company time.

(3) By Simon warning Juhl on or about February 17, 1954, that he was campaigning on company time and property, which warning was directed to remarks which Juhl had made on February 16 to employees on nonworking time.

7. Respondent, by its acts, as set forth in paragraphs 4 and 5 above, did discriminate in regard to hire and tenure of employment of its employees and has thereby engaged in and is thereby engaging in unfair labor practices within the meaning of Section 8 (a), subsection (3) of the Act.

8. Respondent, by its acts as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, did interfere, restrain and coerce, and is interfering with, restraining and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act,

and did thereby engage in and is thereby engaging in unfair labor practices within the meaning of Section 8 (a), subsection (1) of the Act.

9. The activities of Respondent, as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, occurring in connection with Respondent's operations described in paragraphs 1 and 2 above, have a close, intimate and substantial relation to trade, traffic and commerce among the several states of the United States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

10. The activities of Respondent, as set forth in paragraphs 4, 5, 6 (a) and 6 (b) above, constitute unfair labor practices affecting commerce within the meaning of Section 8 (a), subsections (1) and (3), and Section 2, subsections (6) and (7) of the Act.

Wherefore, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Acting Regional Director for the Twenty-First Region, on this 21st day of July, 1954, issues this First Amended and Consolidated Complaint against Essex Wire Corporation d/b/a Essex Wire Corporation of California, Respondent herein.

[Seal] /s/ GEORGE A. YAGER,
Acting Regional Director, National Labor Relations Board, Twenty-First Region.

Admitted in evidence as General Counsel's Exhibit No. 1-H, August 2, 1954.

United States of America Before the
National Labor Relations Board

[Title of Cause.]

ANSWER OF ESSEX WIRE CORPORATION

Now comes Essex Wire Corporation, a Michigan Corporation, authorized to do business in the State of California, by and through its attorney, Walter F. Probst, and, for answer to the complaint charged in the above cause, answers as follows:

1. Essex Wire Corporation does deny each and every allegation contained in said paragraph 1.

2. Essex Wire Corp. submits that due to the National Labor Relations Board's recent enunciation of policy regarding jurisdiction, there is serious doubt that Respondent has been engaged in commerce within the meaning of the National Labor Relations Act.

3. Essex Wire Corp. does deny each and every allegation contained in said paragraph 3.

4. Essex Wire Corp. does deny each and every allegation contained in said paragraph 4.

5. Essex Wire Corp. does deny each and every allegation contained in said paragraph 5.

6. Essex Wire Corp. does deny each and every allegation contained in said paragraph 6, and in each of the paragraphs and sub-paragraphs contained thereunder.

7. Essex Wire Corp. does deny each and every allegation contained in said paragraph 7, and does further deny that it has engaged in an unfair labor practice within the meaning of Section 8(a), subsection (3) of the Act.

8. Essex Wire Corp. does deny each and every allegation contained in said paragraph 8, and does further deny that it has engaged in an unfair labor practice within the meaning of Section 8(a), subsection (1) of the Act.

9. Essex Wire Corp. does deny each and every allegation contained in said paragraph 9.

10. Essex Wire Corp. does deny each and every allegation contained in said paragraph 10.

ESSEX WIRE CORPORATION,
TION,

By /s/ WALTER F. PROBST,
Its Attorney.

Duly Verified.

Admitted in evidence as General Counsel's Exhibit No. 1-J, August 2, 1954.

United States of America Before the
National Labor Relations Board

[Title of Cause.]

ANSWER TO FIRST AMENDED AND
CONSOLIDATED COMPLAINT

Comes now the Respondent, Essex Wire Corporation of California, and answering the First

Amended and Consolidated Complaint herein, admits, denies and alleges:

I.

The Respondent admits the allegations contained in paragraphs 1, 2 and 3.

II.

Answering the allegations of paragraph 4, this Answering Respondent admits that Elizabeth Ann Hamilton was transferred at various times during the course of her employment; this Answering Respondent denies that she was discriminatorily transferred and alleges that her transfers were made at her request; this Answering Respondent alleges that her last transfer prior to abandonment by her of her employment was a temporary measure to fill a vacancy occasioned by the absence of another employee; except as hereinabove specifically admitted, Answering Respondent denies each and every, all and singular, of the allegations therein contained; this Answering Respondent particularly denies that they caused her to leave the plant on or about the date therein alleged and alleges that she left of her own accord and without permission from any of the authorities of the said Respondent.

III.

Answering the allegations in paragraph 5, this Answering Respondent admits that Ann Hamilton was discharged, but alleges that the discharge was for cause and for no other reason; this Answering Respondent alleges that the cause of her discharge

was her abandonment of her job with the said Respondent; except as hereinabove specifically admitted, this Answering Respondent denies all and singular of the allegations therein contained.

IV.

Answering the allegations of paragraph 6(a), Respondent admits that the no-solicitation rule described in paragraph 3 of the said complaint was enforced by the said company; this Answering Respondent denies that it was enforced discriminatorily.

V.

This Answering Respondent does not have sufficient information or belief to answer the allegations of paragraph 6(a) (1), and basing its denial upon that ground, denies each and every, all and singular, of the allegations therein contained.

VI.

This Answering Respondent does not have sufficient information or belief to enable it to answer the allegations of paragraph 6 (a) (2), and basing its denial upon that ground, denies each and every, all and singular, of the allegations therein contained.

VII.

Answering the allegations of paragraph 6 (a) (3), this Answering Respondent denies each and every, all and singular, of the allegations therein contained.

VIII.

Answering the allegations of paragraph 6 (a) (4), this Answering Respondent denies each and every, all and singular, of the allegations therein contained.

IX.

Answering the allegations of paragraph 6 (b), this Answering Respondent admits that it enforced the no-solicitation rule, but denies that it was unlawfully enforced.

X.

Answering the allegations of paragraph 6 (b) (1), this Answering Respondent admits that he demanded of James A. Juhl that he turn over certain cards that James A. Juhl was using during working hours and attempting to secure applications during working hours. That the demand was made by Foreman Casey to enable the said James A. Juhl to work for the said Respondent under his contract of employment and not attempt to campaign for Union membership on company time; that the said James A. Juhl refused to turn over the said cards to the said Foreman Casey; that if the said cards had been surrendered to the said Foreman Casey, they would have been returned to the said James A. Juhl upon completion of his hours of employment with the said Respondent.

XI.

Answering the allegations of 6 (b) (2), this Answering Respondent admits the allegations therein contained.

XII.

Answering the allegations of 6 (b) (3), this Answering Respondent denies each and every, all and singular, of the allegations therein contained.

XIII.

Answering the allegations of paragraph 7, this Answering Respondent denies each and every, all and singular, of the allegations therein contained.

XIV.

Answering the allegations of paragraph 8, this Answering Respondent denies each and every, all and singular, of the allegations therein contained.

XV.

Answering the allegations of paragraph 9, this Answering Respondent denies each and every, all and singular, of the allegations therein contained; this answering Respondent particularly denies that it has done any act tending to lead the labor disputes burdening and obstructing commerce and the free flow of commerce.

XVI.

Answering the allegations of paragraph 10, this Answering Respondent denies each and every, all and singular, of the allegations therein contained; this Answering Respondent particularly denies that it has done any act which could be constituted an unfair labor practice.

Wherefore, this Answering Respondent prays that the complaint be dismissed forthwith and that

the Respondent be exonerated of the claims hereinabove made.

WILLIAM H. MACOMBER &
FRANKLIN B. ORFIELD,
Attorneys for Respondent.

Duly verified.

Admitted in evidence as General Counsel's Exhibit No. 1-K, August 2, 1954.

United States of America Before the National
Labor Relations Board

[Title of Cause.]

INTERMEDIATE REPORT AND RECOMMENDED ORDER

Statement of the Case

Upon charges duly filed and served, the General Counsel of the National Labor Relations Board, in the name of the Board, caused the Regional Director of its Twenty-First Region, at Los Angeles, California, to issue a complaint on June 17, 1954, and a First Amended and Consolidated Complaint on July 21, 1954, under Section 10 (b) of the National Labor Relations Act, as amended. 61 Stat. 136. The Respondent therein, Essex Wire Corporation, was charged with the commission of certain unfair labor practices under Section 8 (a) (1) and (3) of the statute. Copies of the first charge, the original complaint in the case, the second charge,

the Director's original Order of Consolidation and Notice of Hearing, and the First Amended and Consolidated Complaint were duly served upon the Respondent. And the Respondent—in its turn—then filed an answer admitting certain jurisdictional allegations of the Consolidated Complaint, but denying the commission of the unfair labor practices charged.

The First Amended and Consolidated Complaint, as further amended subsequently, alleges in substance—and the answer denies—that the Respondent, on February 10, 1954, discriminatorily transferred Elizabeth Ann Hamilton from her regular job to one of a more difficult and disagreeable character, because of her participation in concerted activity for the purposes of collective bargaining and other mutual aid and protection; that the Respondent caused her to leave its plant on or about February 10, 1954, by reason of the discriminatory work assignment; and that the Respondent utilized such action on her part, on or about the 11th of February, as a pretext for her discharge. The Consolidated Complaint, as amended, also alleges—and the Respondent's answer denies—that Loraine L. Evans was discharged on or about June 4, 1954, and that she and Mrs. Hamilton had been refused re-employment because of their participation in concerted activity for the purposes of collective bargaining and other mutual aid or protection. The Respondent is also charged with—and denies—the discriminatory and unlawful enforcement of a valid

plant rule, intended to prohibit union organizational activity on company time. Its entire course of conduct, the General Counsel charges, involved discrimination in regard to the hire and employment tenure of its employees, and interference, restraint and coercion of its employees in connection with their exercise of rights statutorily guaranteed.

Pursuant to notice, a hearing was held before me, as a duly designated Trial Examiner, at San Diego, California, from August 2, 1954, to August 5, 1954, both dates inclusive. The Respondent was represented by counsel; Mrs. Hamilton and Mrs. Evans, the Complainants in the case, filed appearances in their own behalf. Each of the parties was afforded a full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence pertinent to the issues.

At the outset of the case, as noted, the case caption was amended, by mutual consent, to show the proper corporate name of the Respondent; several additional substantive amendments, of a minor character, were offered on behalf of the General Counsel and approved without objection.

At the conclusion of the testimony, the Respondent moved for a dismissal of "both the complaints" for lack of proof; no ruling was announced, however, and my disposition of the motions will appear in this report. The parties waived their right to oral argument, but a brief has been received from the Respondent, and the General Counsel's representative has submitted a memorandum.

Upon the entire record in the case, and my observation of the witnesses, I make the following findings of fact.

Findings of Fact

I.

The Business of the Respondent

Essex Wire Corporation, a Michigan corporation doing business as The Essex Wire Corporation of California, is engaged in the manufacture and sale of wire products in various states of the United States, including Michigan and California. It maintains plants at Anaheim and San Diego, in the latter state; the San Diego plant is the only one involved in the instant case, however. During the twelve-month period ending on June 1, 1954, the Respondent sold products manufactured at its San Diego plant, valued in excess of \$100,000, to customers outside the State of California. Within the same period, products manufactured at the San Diego plant, valued in excess of \$200,000, were sold to firms in California, which products were ultimately shipped to points outside of the state. As a multistate enterprise the Respondent, during the same period, sold and shipped products valued in excess of \$250,000 from its various plants to points outside the state in which the plant in question was located.

The Respondent admits, and I find, that it is engaged in commerce within the meaning of the Act, as amended. On the basis of the available evidence, and in accordance with the Board's newly

established policy—see Jonesboro Grain Drying Cooperative, 110 NLRB No. 67—I find that the assertion of the Board's jurisdiction in this case is warranted and that it would effectuate the objectives of the statute.

II.

The Labor Organization Involved

The United Mine Workers of America, District 50, unaffiliated—to be designated as the UMW elsewhere in this report—is a labor organization within the meaning of Section 2 (5) of the Act, as amended, which admits employees of the Respondent to membership

(The General Counsel's First Amended and Consolidated Complaint, as previously noted, alleged that the discriminatory transfer of Elizabeth Ann Hamilton from her regular work to other work of a more difficult and disagreeable character, and the subsequent discharge of Mrs. Hamilton and Loraine L. Evans, were undertaken because of their participation in "concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection" as statutorily defined. There are no allegations in the Consolidated Complaint that the Respondent's course of conduct involved discrimination in regard to their hire, employment tenure, or any terms or conditions of their employment to encourage or discourage membership in a labor organization.

Nevertheless, the Consolidated Complaint alleges that the Respondent's course of conduct with respect to these employees involved unfair labor practices within the meaning of Section 8 (a) (3) of the Act, as amended. The record fails to reveal any challenge to the First Amended and Consolidated Complaint, however, expressly grounded in its apparent failure to state a "cause of action" under Section 8 (a) (3) of the statute. And the issue was, in fact, fully litigated. I have, therefore, treated the Consolidated Complaint as one calculated to charge the Respondent with unfair labor practices under Section 8 (a) (3) as well as Section 8 (a) (1) of the Act, as amended, insofar as the Complainants are concerned. And my conclusion with respect to the character of the United Mine Workers of America, District 50, unaffiliated, as herein set forth, constitutes, of course, a necessary prerequisite to any consideration of the issues presented by the Consolidated Complaint thus construed.)

No allegation with respect to the UMW's status as a labor organization, it is true, appears in the First Amended and Consolidated Complaint, and no evidence specifically calculated to establish its status as such was, in fact, offered. On the basis of Board decisions too numerous to cite, however, I have taken official notice of its existence as an organization in which employees participate, and of the fact that it exists for the purpose, in whole or in part, of

dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. Hence my conclusion with respect to its status, as noted.

The Respondent, at various times, adverted to the UMW as an "unauthorized" union, which has failed or refused to meet the compliance requirements established in Section 9 (f), (g) and (h) of the Act, as amended. For purposes of the instant case, however, it may be taken as datum that a failure to effect "compliance" with the statute, under the subsections cited, does not, of itself, operate to deprive any voluntary association of its character as a labor organization under Section 2 (5) of the Act, as amended. *N. L. R. B. v. Pratt, Read and Company*, 191 F. 2d 1006, 29 LRRM 2025, 2026 (C. A. 2), enforcing 90 NLRB 1499. And I so find.

In his brief, however, the Respondent's counsel now argues that the Complainants—Elizabeth Ann Hamilton and Loraine L. Evans—were "fronting" for the UMW at all material times, and that their charges should therefore be dismissed. If the contention thus spelled out represents an argument that the Complainants have no rights under the statute because they "actively organized" the Respondent's employees in behalf of a non-complying union, it must be rejected on the basis of the authority just noted. *N. L. R. B. v. Pratt, Read and Company*, *supra*. If, however, the Respondent wishes to contend that the complainants were acting in behalf of the UMW when they filed the charges in this case,

the contention must be rejected as factually and legally insupportable. Nothing in the charges, the First Amended and Consolidated Complaint, or the evidence, suggests an attempt, in this case, to vindicate or assert any right or interest of the Mine Workers as a labor organization under the statute. The cases cited in behalf of the Respondent's contention, can only be characterized as inapposite. *N. L. R. B. v. Beaver Meadow Creamery*, 215 F. 2d 247, 34 LRRM 2715, 2716 footnote 4, (C. A. 3) and the cases therein cited. I find the contention, therefore, without merit.

III.

The Unfair Labor Practices

A. The Respondent's Plant Organization

The Respondent's San Diego plant, involved in the instant case, operates under the supervision of Mr. Mitchell J. Simon, its Pacific Coast production manager. Immediately subordinate to Production Manager Simon, Mr. Fred Harms functions as plant superintendent. Under Plant Superintendent Harms there are three general foremen; only one of these however, Kenneth King, played a significant part in the events with which this case is concerned. Under its general foremen, also, the Respondent employs more than six assistants or section foremen, otherwise designated in the record as department foremen. Only two of these, Melvin Kresin and Clyde Casey, appear to have been involved in the situation now under consideration.

(Kresin, in charge of the "finished assembly" department, supervised the employee group which included the Complainants herein. A "chief inspector" not otherwise designated in the Respondent's managerial hierarchy also supervised the work of Mrs. Evans as a checker.)

The employee group supervised by Kresin, the record shows, may number forty at the most; Production Manager Simon's testimony, generally, indicates that he supervises "over thirty" employees. Three lead women function under Kresin. At all material times, this group included Helen Greenwood, the lead woman of a group which includes approximately 15 employees, and Peggy Reddin, the lead woman of a group which fluctuates in size from 10 to 20 employees.

(Production Manager Simon's testimony, which stands in the record without contradiction, indicates that these lead women spend more than 80 per cent of their time in actual production. The Respondent does not consider them supervisors. They are hourly paid. Simon characterized Greenwood as a "service" girl who supplies the other girls working on the firm's large rotary conveyor—an assembly line—with the materials they need and relieves them whenever they have to leave the conveyor table. Other evidence in the record, however, establishes that she may also direct employees to take particular stations on the conveyor, on occasion, and that she is authorized to call upon

another "all around" girl, Betty Cave, to handle relief assignments and bring supplies.)

At the time of the events with which we are now concerned, the San Diego plant was engaged, among other things, in the manufacture and assembly of "cowl harnesses" for use in passenger automobiles. These harnesses, the record shows, contain a group of insulated wires, each fitted with appropriate metal connectors; they are assembled in conformity with a predetermined pattern, bound with an overall coat of plastic, and shipped for insertion and attachment under the dashboard of some particular make and style of passenger car. Production Manager Simon's undenied and credible testimony indicates that the average harness manufactured, at all times material, contained approximately thirty-two wires, most of them with appropriate attachments—a block, terminal, connector, switch, or circuit breaker, and so forth.

In the "finished assembly" department, under Kresin's supervision, Peggy Redden served, I find, as the lead woman of an employee group which operated individual "taping" machines to coat certain wires with plastic tape, and a small rotary conveyor or assembly line devoted to the fabrication of harness sub-assemblies. Greenwood, the record shows, functioned as the lead woman at a large "rotary conveyor" table. Essentially, the productive unit thus designated appears to be a large, continuously moving, assembly line with "jigs" upon which individually taped wires and wire sub-assemblies are

fitted in connection with the final assembly operation. Production Manager Simon described the operation as follows:

. . . a group of girls around the rotary table, each girl has a station. Each girl does a particular operation and starting out, No. 1 station gets completely around the table. [After] all stations have been fulfilled [the] harness finished is removed from the conveyor and put on the overhead conveyor . . . This is a final assembly and they will put these wires on a jig. The jig is all laid out and the wires fit in certain places. They will put these wires on consecutively going down the table as the jig passes their station. Then as it makes the turn and goes to the reverse side of the table . . . the harnesses are then taped with the plastic tape . . . then, as it makes the final turn, there is a girl, the last girl . . . who removes this harness physically from the jig.

After removal, at the "take-off" station, each harness is suspended from a hook on an overhead conveyor, slightly to the rear; it is carried by the overhead conveyor to other employees for the addition of certain attachments, then to an oven which bakes its plastic coating to a "homogenous" state, then to the firms' "inspection" area in which defective items are tagged and removed for repair, and finally to the shipping department in which they are removed for packaging and shipment.

B. Employee Representation

For a number of years—the exact number being immaterial—the employees at the San Diego plant have been represented, in collective bargaining, by Silvergate District Lodge No. 50 in behalf of Automotive Electric Lodge No. 1930 of the International Association of Machinists. Continuously and at all times material, indeed, that organization has functioned as the exclusive representative of the employees pursuant to a contract with the Respondent; a copy of the agreement received in evidence reveals that it became effective on January 15, 1953, and remained in full force and effect through May 15, 1954. I so find.

(Under this agreement, the Respondent recognized the union—to be designated in this report as the IAM whenever necessary—pursuant to a Board certification issued on July 22, 1948, as the exclusive collective bargaining agency for all of the Respondent's employees except office and clerical workers, guards, professional employees and supervisors as statutorily defined. The agreement also provided for a conventional "thirty day" union shop, and a voluntary check-off with respect to initiation fees and dues.)

Subsequently, as of May 15, 1954, this contract was replaced by a new agreement, scheduled to remain in full force and effect until November 15, 1955. The provisions of the new agreement with respect to the scope of the bargaining unit, the union

shop, and the voluntary checkoff, represent a continuation of previous commitments without change.

C. The Campaign on Behalf of the United Mine Workers

Late in 1953, apparently, several employees of the Respondent became interested in the UMW as a possible bargaining agent. Some discussion of such a change in the bargaining agency appears to have taken place in December of that year, shortly before the holidays.

(Mrs. Hamilton appears to have been active in these discussions. Her husband, J. C. Hamilton, and her sister-in-law, Mrs. Evans, were also interested. All were employed, at the time, in the "finished assembly" department of the plant—Mrs. Hamilton as a taping machine operator, Mrs. Evans as an inspector or checker, and J. C. Hamilton as a packer, James A. Juhl, a maintenance mechanic, also appears to have become interested in UMW representation at the same time. I so find.)

Mrs. Evans was designated as the chairman of an organizational campaign in the UMW's behalf. With other employees, she undertook to solicit authorization cards in behalf of that organization, before the holidays and thereafter, at the homes of the employees and at the plant.

(A synthesis of the testimony given with respect to this organizational campaign consist-

ently indicates—at least insofar as the UMW sympathizers are concerned—that the organizational activity at the plant was confined to the free time before and after work, the lunch hour, and the established morning and afternoon rest periods. Their testimony indicates that the UMW adherents, upon a few occasions, may have accepted executed authorization cards proffered by their fellow employees during working hours, and that they may have answered occasional questions asked, on company time, with respect to the organization. As witnesses, however, all of the UMW adherents testified that they had not, themselves, engaged in organizational solicitation or initiated discussions of the campaign on “company” time. This testimony was vigorously disputed. To the extent that the conflict indicated may be material, it will be analyzed elsewhere in this report.)

Early in January, 1954, James A. Juhl helped to distribute UMW “membership” cards. On the day after he initiated this activity he was accosted by his foreman, Clyde Casey. No one else appears to have been present. Juhl’s testimony with respect to their conversation reads as follows:

Well, anyway, I was coming near the punch press line which is right near that part of the factory and Casey called me over. He asked, he says, if I was passing out membership cards for Mine Workers and I said I was. And he says, “Have you got any of them signed?” And

I said, "Yes, I do." And he said, "What are you trying to do, make a fool out of me?" And I said, "No," I didn't know quite what he meant. I said, "No." He said, "Where are the cards?" I told him I had them on me. He said "Don't you like your job here?" I said, "Yes." He said, "Well, I want the cards in my office in five minutes." I didn't know what exactly to do. I took the cards and gave them back to the people on company time on threat of being discharged and went to the office and told him I gave them back to the people. Then he went on to tell me—I gave the cards back to the people—and then he went on to tell me that in order for me to campaign and get another union, I first had to notify the front office of the plant and then I would have to wait until the contract of the IAM expired and have to have a vote on two or more unions to see which came in and that was the end of that meeting.

Juhl's testimony, as quoted, was not specifically challenged in cross-examination, and it has not been denied. In general, the maintenance mechanic impressed me as an honest, forthright witness. None of his testimony could be characterized as inherently incredible. With respect to the portion noted, I find it worthy of acceptance.

The UMW's organizational activity, I find, gave rise to considerable discussion and conflict among the employees. Several characterized the situation as one marked by "confusion" and "bickering" with

respect to the right of the UMW adherents to engage in such activity. And Production Manager Simon's testimony, which I credit in this connection, indicates that he became aware of the situation quite early. On a date not set forth specifically, but apparently early in January, he sought advice by telephone from the Respondent's main office in Detroit, Michigan, with respect to the course of conduct he ought to follow. In substance, it would appear that he was advised to follow a "middle course" and to avoid any display of partisanship in the "factional" dispute, but to insist that no organizational activity could be conducted during working hours. And Simon's testimony, which I credit, establishes that the Respondent's supervisors were instructed, orally, to maintain such a policy, and to insist that company time be devoted to work.

(The production manager's testimony also establishes that he was told the firm could do nothing about union buttons and campaign material as long as they were not being "handed from one to another" on the job during working hours.)

The production manager also testified that a group of four employees—presumably IAM adherents—came to see him shortly after his receipt of the instructions indicated. His testimony reveals a complaint on their part with respect to the distress allegedly felt by many employees in regard to the UMW's organizational activity; he was asked, it would appear, whether the Respondent could do any-

thing to ameliorate the situation, presumably by the imposition of some restrictions upon the UMW's campaign. Consistently with his instructions, however. Simon appears to have advised the employees that the Respondent would have to maintain a position of strict neutrality, and that any advice as to the courses of action available to the employees would have to come from their accredited union representatives. The employees were also advised, I find, that the Respondent, under the law, would insist on a prohibition of "campaigning" on company time by either employee group.

(Upon the record as a whole, there may be some question with respect to Simon's attempt to assign a January date to this conversation, immediately subsequent to his receipt of instructions from the Respondent's main office. In the light of the available evidence, however, I am satisfied that the indicated conversation took place, and that it probably took place in January, as the production manager testified.)

At or about the same time—within a day after Simon's Detroit call—he appears to have found an occasion to admonish Gerald W. Pipmeier, a UMW adherent, for receiving a UMW pin from another employee, and for attaching it to his shirt during working hours. The burden of the admonition, as indicated in Simon's undenied testimony, seems to have been that the distribution of union pins or buttons, and their passage from one employee to

another during working hours, constituted campaign activity on company time. And Pipmeier appears to have been told, in effect that his guilt in this connection had not been established by observation, but that he would be well advised to conduct himself in accordance with the indicated rule thereafter. I so find.

(In reaching this conclusion, I have accepted the testimony of the production manager, which stands uncontradicted. I do not believe it to be inherently incredible. Pipmeier, although subpoenaed in the General Counsel's behalf, did not appear as a witness—and the record establishes that he had resigned his position at the plant after the incident in question, to accept other employment, and that he had then sent a written expression of good will to the Respondent's production manager.)

Within two days after his receipt of the instructions previously noted, Simon prepared a notice to be posted on the Respondent's bulletin board. There is some conflict as to whether the notice in question was actually posted, its location, and the date of its appearance. A copy produced for the record, however, indicates that it was prepared for posting on January 14, 1954. And I find, after a reconciliation of the available evidence, that the notice was in fact, posted on that date. It read as follows:

To. All Employees:

It has come to our attention that our employees are engaged in union campaigning dur-

ing working hours. Any such campaigning for any union during working hours is contrary to company rules and, therefore, those involved are subject to disciplinary action.

We request those involved campaigning for any purpose on company time to refrain from: These practices in order that we may not become involved in some undesirable incidents.

Shortly after this notice was posted, Juhl's foreman I find, took him to see the production manager. The employee's version of the conversation that ensued reads as follows:

. . . and he asked me if I was campaigning on company time. And I said, "No, I wasn't campaigning on company time but I was on company property." Well, he told me that we were causing a lot of grief, you know, while the people going up in arms against everybody and things like that and explained to me if I want to campaign to do it off the company property out out of the company time. And I told him I was doing it during lunch hour and rest period and he said the rest period was company time because we were being paid by the company for rest periods.

The maintenance mechanic's testimony also indicates that Simon spoke to him again about one month later, with regard to his participation in the UMW campaign. According to Juhl, the production manager criticized him for allegedly "passing it

around” that employees at the Respondent’s Anaheim plant were getting higher wages per hour than those in San Diego. Simon went on, according to the maintenance mechanic, to explain the basis for any wage differential between the two plants. Juhl’s testimony also indicates that the production manager again admonished him with respect to “campaigning on company time and property” in general terms. The maintenance mechanic, according to his testimony, countered with a question as to whether it was permissible for employees to solicit “retractions” from UMW adherents on company time; Simon’s reply, according to Juhl, was that Goldie Riggins—an official of the IAM local—was allowed to collect dues and process grievances on company time, and that any restriction of her “campaigning” on company time was bottomed upon a gentlemen’s agreement.

The testimony of the production manager, in this connection, was brief. Immediately after a detailed exposition of the warning given to Employee Pipmeier, previously noted, Simon testified that:

I also made that statement to James Juhl in the presence of Mr. Casey and Mr. Lee Baker on two occasions that I didn’t care what they did outside or what union they wanted or who they wanted to represent them but they weren’t going to do it on company time.

In the face of this testimony—which I credit, despite its summary character, for reasons to be

noted elsewhere in this report—I find Juhl's testimony erroneous, insofar as it purports to indicate a general prohibition of organizational activity on company property during non-working time. The maintenance mechanic did testify, however, to a declaration by the production manager that rest periods would be considered "company" time during which campaigning would be forbidden. This aspect of Juhl's testimony has not been denied. And I find that Simon, in the course of the conversation indicated, so construed his posted rule with respect to organizational activity.

In view of the IAM's status as the accredited representative of the employees for a number of years, some of that organization's "buttons" appear to have been worn at the San Diego plant prior to the advent of any rival organization. With the inception of the UMW organizational activity, however, the employees were apparently urged to wear IAM buttons as a sign of their "loyalty" to that organization. And the record establishes that many did so. J. C. Hamilton, as a witness, also testified, however, that he observed an IAM representative, on one occasion, in the plant during working hours, engaged in the distribution of IAM buttons to the employees. Hamilton dated the incident as of the 1st of February, approximately. Various representatives of the Respondent, as witnesses, denied any knowledge of the indicated button distribution; the packers' testimony with respect to it, however, has

not been contradicted. I find that the incident, as he described it, occurred.

On Monday, February 8, 1954, pursuant to the advice of a UMW representative, Mr. and Mrs. Hamilton—and possibly others—publicly acknowledged their adherence to that organization by donning UMW buttons at work. Before work started that day, J. C. Hamilton appears to have become involved in an altercation with Jean Rooney, another employee. The latter subsequently complained to her IAM committeewoman, Goldie Riggins, that Hamilton had threatened to “slap” her. And Riggins appears to have reported the incident to Production Manager Simon. Hamilton, at all events, was called in for an explanation.

(He denied the alleged threat, and nothing came of the incident. Production Manager Simon’s remarks with respect to it—upon which all of the witnesses are substantially agreed—reveal no bias, in my opinion, with respect to the underlying “factional” dispute. I have, therefore, refrained from any attempt to set forth the controversy in detail.)

In the course of the conversation that ensued, a question appears to have been raised with respect to Hamilton’s UMW activity. The packer, according to his testimony, denied that he had been campaigning for that organization on company time or company property. Riggins, again according to his testimony, disputed that statement—and Simon, he

testified, declared himself to be aware of his (Hamilton's) organizational activity, and reported that he had also talked to Juhl about such activity on company time. Hamilton's testimony indicates that the production manager then referred to his UMW button and told him to "take it off and leave it off" as long as he was in the plant. Hamilton testified that he did so, and that he was told by Simon that he (Simon) did not wish to see that badge on Hamilton again. Hamilton's further testimony with respect to the incident, then, reads as follows:

... and just as I started along the corner to go back to my station, Mr. Simon told me, called me back and said, "Jimmy, come here. I'm going to give you a warning now. I don't want to hear you signing nobody for the Mine Workers in this plant as long as this is on company property or company time." He said, "I pay you for the break and that is my time," and he said, "I'm giving you this warning now so you can take it." And he said, "I want you to get back in your station and stay there."

As a witness for the Respondent, Production Manager Simon substantially corroborated Hamilton's testimony with respect to their conversation about Jean Rooney's complaint—which I have not troubled to explain in detail. Insofar as the rest of the conversation outlined in Hamilton's testimony is concerned, however, Simon was asked to comment only with respect to the charge that he had told the packer to take his badge off and leave it off, as long

as he was in the plant. This the production manager denied.

Hamilton's testimony with respect to the incident was given in a straightforward manner. I am satisfied that it was honestly given, and that it represents his best recollection. Insofar as it purports to reiterate a contention on the part of the production manager that "break" periods represented company time, during which no UMW organizational activity would be permitted, I am satisfied that it is in accord with the facts. Two questions, however, remain: Did Simon's warning to Hamilton include a sweeping prohibition against organizational activity on company property without regard to the time at which it might take place? And, secondly, did he order Hamilton to remove his UMW button and refrain from its display in the plant thereafter?

Upon the entire record, I find myself persuaded that each of these questions should be answered in the negative. The available evidence establishes, in the absence of effective contradiction, that Production Manager Simon had already conferred with the Respondent's legal department—and that he had been advised, in substance, to pursue a non-partisan policy in the developing conflict, while insisting on the company's right to ban organizational activity during working hours. And I am satisfied that Simon was sincere in his desire to effectuate such a policy. Several of the witnesses who testified at the call of the General Counsel, in fact, recited conversations which strongly suggest—if they do not, in-

deed, establish—a genuine effort on the part of the production manager to maintain a balanced neutral position. Although the record will show, as I have found, that he considered the Respondent's daily rest periods part of the "company time" during which organizational activity might properly be forbidden, I do not believe that a preponderance of the evidence will support a conclusion that he intended the firm's ban on organizational activity to be effective on company property at all times. Nor will a preponderance of the credible evidence, in my opinion, establish that he—the production manager—ever ordered Hamilton or any other employee to remove a UMW button in the plant. I am satisfied that his comments with respect to these buttons were in fact limited, as he testified, to a prohibition of their passage from hand to hand during working hours, on the theory that such a button transfer constituted organizational activity on company time. And it is so found.

On the 8th of February, also, about fifteen minutes after the conversation just noted, Mrs. Evans engaged the production manager in conversation again. The discussion, according to Mrs. Evans, revolved around her complaint with respect to the circulation of a petition in the plant, by the adherents of the incumbent union, which UMW supporters were not allowed to see or sign. Simon was informed, the checker testified, that the petition was being circulated on company time. According to Mrs. Evans also, Simon, in response, indicated merely that he

was aware of the petition, but that he did not know what he would do about it.

(Upon the entire record, there is certainly some doubt as to the character of the petition. Mrs. Evans testified that she had been "told" by one employee that it was addressed to a local "TV" station, and that it had been prepared to serve as a mass request for more polka music to be played by the station in question. She also appears to have been "told" by Committee-woman Riggins, however, that the petition was being circulated only to employees previously in attendance at an IAM union meeting. Production Manager Simon's testimony indicates that the only petition known to him was a petition signed by more than fifty employees, requesting that he grant an audience to them for some unspecified reason; Simon identified that petition, however, as one circulated just before his January conference with an employee delegation, previously noted, in regard to the company's proposed course of conduct with respect to the "confusion" and "dissension" prevalent in the plant. Having found that the conference in question took place immediately prior to the posting of the Respondent's January 14th notice, I am constrained to conclude that the references of Mrs. Evans to a petition currently being circulated may have been grounded in nothing more than anticipatory fear that the "TV" petition had, in fact, been motivated by

the employee opposition to the UMW campaign. The evidence is inconclusive, however. Upon the entire record, therefore, I cannot find that the incident reveals any indifference on the part of management to the conduct of an anti-union campaign on company time, as the General Counsel would seem to suggest.)

The production manager did testify that Mrs. Evans told him about the alleged activities of Dorothy Randall, an official of the incumbent local, in connection with the circulation of "deauthorization" cards in the plant to announced UMW supporters. Simon's testimony indicates, however, without effective contradiction, that he had described such action by Randall, if established, as contrary to company policy, that he had described himself as without personal knowledge of the matter, and that he had asked his subordinates to investigate and make a report as to whether Randall was, in fact, so engaged. In the absence of any dispute, I credit this testimony.

(Among other things, it is worthy of note in this connection that Mrs. Evans, according to her own testimony, told Simon, during the conversation now in issue, of the way in which the other employees were "treating" the UMW adherents. According to Mrs. Evans, Simon asked whether she had ever raised a question with respect to the problem before the IAM leadership; her reply, apparently, indicated the reluctance

of the incumbent union's leadership to entertain a grievance against itself. She testified that the production manager then told her that whenever anybody did "anything" to her she was to "come in" and file a grievance. The attitude of the production manager, thus revealed, has been one of the factors impelling me to conclude, as I have concluded, that his course of conduct in this situation did not stem from any bias against the "outside" organization or in favor of the incumbent union.)

On the 8th of February, also, Mrs. Hamilton, wearing a UMW button, was approached by General Foreman King while at her taping machine. Her testimony with respect to the conversation which ensued reads as follows:

He came to me and he says, "Ann," he says, "have you read or have you heard of the notice that Mr. Simon had posted on the bulletin board that there was to be no campaigning on company time or property?" And I says, "I'm not campaigning on company time or property." He said, "You are wearing a badge." I said, "Well, I'm still not campaigning." And he said, "Well, you'll have to take that badge off." And I said, "I didn't see why I'm not allowed to wear my badge if other people are." He said, "Well, we think you are campaigning and you have to take your badge off." And he left me.

General Foreman King, as a witness, insisted that he had never ordered any employee to remove a

UMW badge or button. His testimony shows, however, that Mrs. Hamilton's action in displaying the button had been brought to his attention by several IAM adherents, that these supporters of the incumbent union had complained of the "dissension" engendered by the UMW campaign, that he (King) had requested advice from Production Manager Simon with respect to the Respondent's policy in the situation—and that he had spoken to Mrs. Hamilton, nevertheless, without awaiting the production manager's answer. In general, the foreman impressed me as a reluctant witness—somewhat abashed, to say the least, at the sound of his own testimony. His demeanor as a whole, conveyed a very strong impression that relevant information, within his knowledge, was being deliberately withheld. Upon the entire record, and my observations, I find Mrs. Hamilton's version of the incident, quoted, more worthy of credit. It is so found.

On the morning of February 10th, however, pursuant to the renewed advice of a UMW representative, Mrs. Hamilton wore her button again. This time, shortly after work began, she was approached by Section Foreman Kresin. Her version of their conversation reads as follows:

He came up to me and he says, "Ann, I don't want you to start any fussing or fighting back in the plant about wearing your badge." I said, "Mell, I'm not going to say anything to anyone. If anything is said, they will say it to me." He says, "Well, you will have to take that badge

off." . . . And I left my badge on and he walked away.

Mrs. Hamilton's testimony also indicates that she pointed out that "the other people" were wearing their badges, and that Kresin made no comment.

The section foreman admitted an admonition to Mrs. Hamilton about campaigning on company time, but denied any order with respect to the removal of her UMW button. His further testimony, however, indicates that Redden and Dorothy Randall, adherents of the incumbent union, had complained to him about the UMW pins, earlier in the week. There is no evidence whatever, in the record, with respect to Mrs. Hamilton's activity in behalf of the UMW on company property, during working hours or otherwise. Insofar as the record will support any conclusion, I am convinced that the section foreman's warning with respect to "campaigning" on company time could only have been based upon a belief that the display of a UMW button constituted campaigning. In the light of the available evidence and my observations, then, I credit Mrs. Hamilton's version of the incident now under consideration.

(In doing so, however, I have placed no reliance upon the corroborative testimony given by Mrs. Evans, who described the Kresin-Hamilton conversation as one taking place before the day shift started—a contention not otherwise established by the record.)

Shortly after the morning "coffee break" on the 10th of February—during which Mrs. Hamilton left the plant under circumstances to be related elsewhere in this report—Production Manager Simon appears to have had a conversation with J. C. Hamilton, at his work station, with respect to union activity. The statements of each in regard to the gist of their talk, however, are sharply at variance. No useful purpose, in my opinion, would be served by a detailed analysis of their testimonial conflict. For the purpose of this report, I find it sufficient to note that Hamilton, in substance, accused the production manager of ordering him to take off his UMW badge. According to Hamilton, Simon also threatened him with discharge for engaging in UMW organizational activity, advised him that all of his incoming telephone calls would have to be routed through the Respondent's office thereafter, and threatened to close the San Diego plant and remove all harness work to the Respondent's Anaheim operation if the UMW campaign succeeded. The manager, in his final appearance as a witness, denied the issuance of any order requiring the removal of UMW badges; he also denied any threat to close the San Diego plant, and characterized such a threat, in fact, as impossible of execution, for reasons not material in this report. He admitted a conversation with J. C. Hamilton in which he had attempted to admonish the packer with respect to absences from his work station in connection with incoming calls, and in which he had insisted upon the Respondent's right to control the activities of employees during

working hours, despite a threat by Hamilton to initiate charges before this agency on the basis of the Respondent's alleged interference with protected concerted activity on the part of the San Diego workers.

Whatever the situation with respect to Kresin and King may have been, I am satisfied that Simon understood, generally, the permissible limits of employer action in a context of organizational rivalry. He had, of course, been "briefed" in this respect, some time earlier. I find it difficult, therefore, to believe that he would have engaged in baldly coercive threats of the type indicated in J. C. Hamilton's testimony. His own version of the conversation was given with every indication of sincerity, and abounded in circumstantial detail. Upon the entire record, then, I have rejected J. C. Hamilton's version of the incident.

The testimony of Mrs. Evans, finally, indicates that early in February, on a date not set forth specifically in the record, Production Manager Simon—in a lengthy conversation—indicated his preference for the incumbent union as the accredited representative of the employees, insisted upon the propriety of a UMW button ban because of the Respondent's obligations under its IAM contract and because such button displays would constitute campaigning on company time, indicated that he felt free to discharge Mrs. Evans for "insubordination" and to move the San Diego plant's work to Anaheim, and identified himself as the individual who had "dug"

in the IAM when informed of the desires of the San Diego employees with respect to union representation. This testimony, too, was vigorously challenged by the production manager. His version of it, in my opinion, requires no repetition. With specific reference to the only thing new in the remarks attributed to him, Simon denied that he had "drug" in the IAM to represent the Respondent's San Diego employees. And, in fact, the Respondent's contract with that organization—received in evidence without objection—embodies a recital with respect to its certification prior to Simon's San Diego assignment. Upon the entire record, then, I am satisfied that Evans misconstrued the plant manager's remarks, in this as in other respects, and that their over-all import suggests, rather, a determined effort on the part of the Respondent's local management to give effect to its current IAM contract and, at the same time, to maintain a policy of neutrality. It is so found.

The record is silent with respect to the UMW's organizational activity, if any, at the San Diego plant after the 10th of February, as noted. Some time previously, it would appear, charges had been filed against Mrs. Hamilton, Mrs. Evans, and several other adherents of the "outside" organization, as members of the incumbent union. These charges appear to have been heard before an appropriately constituted committee of the incumbent union some time subsequent to the 10th of February. None of the individuals charged appeared in their own defense. All of them, apparently, were expelled.

D. Mrs. Hamilton's Discharge

On February 10, 1954, Frances Miranda, the Respondent's "repair girl" was absent. And shortly after work began, I find, this fact was reported by Redden to the section foreman. Kresin immediately undertook to arrange for Miranda's temporary replacement.

(The Respondent's repair station, I find, is a work station at which defective harnesses "tagged" by the Respondent's inspectors are repaired. Wires with defective insulation, and defective or broken attachments, are replaced. Upon the completion of any necessary repairs the harnesses are sent, together with those which the inspectors have previously passed, to the packers. The record shows, and I find, that uninterrupted performance at the repair station is considered essential to the Respondent's productive activity, since an accumulation of unrepaired harnesses on the Respondent's overhead conveyor would, in short order, block the passage of the other completed work to the packers. The effective replacement of Miranda was therefore, I find, essential.)

Within an hour after work began, Kresin appears to have determined that Inez Hobbs, an employee regularly assigned to the large rotary conveyor—also designated as Debbie in the record—would have to be assigned to Miranda's repair station, and that Mrs. Hamilton, then assigned to a "taping" ma-

chine, would be the employee designated to replace Hobbs, temporarily, on the conveyor. Greenwood and Redden, I find, were so advised.

(The manner in which the section foreman reached his decision is not revealed, clearly, by the record. He may have conferred with both of the lead women involved, and he may, indeed, have sought their suggestions with respect to the replacement of the absent repair girl. I find it most logical, and consistent with sound industrial practice, to assume that he did. At least two of the employees on the large conveyor—including Hobbs, then assigned to a “wire” station—appear to have had sufficient experience to handle the repair assignment; Kresin could very well have sought Greenwood’s assistance in connection with the choice he had to make. Her testimony suggests that he did; at least, it is indicated that he told her he might have to use one of the conveyor girls at the repair station. And there is testimony by Redden, which I credit, that Kresin asked her to suggest a temporary replacement for Hobbs on the big conveyor and that Mrs. Hamilton was suggested by her. Eunice Ford, an incumbent union official, testified that she had previously suggested Mrs. Hamilton to the lead woman, with deliberate malice, as a replacement on the conveyor. Her testimony also suggests that Redden had acquiesced in the suggestion, after a reported conference with the Respondent’s production man-

ager. In the light of the entire situation revealed by the record, however, I have not considered this testimony worthy of credit. Even if accepted, it would not be sufficient, in my opinion, to sustain a conclusion that Mrs. Hamilton's actual selection for temporary reassignment to the large conveyor, by Section Foreman Kresin, was motivated by malice. No such conclusion is reached.)

Within a short time after Kresin's announcement, Greenwood apparently decided that the replacement to be supplied by Redden would not be assigned directly to the work station vacated by Hobbs. A double shift appears to have been arranged, under which Hobbs, when called, would leave for the repair assignment and Jo Hutchins, then assigned to the "take-off" station, would be assigned to replace Hobbs. Mrs. Hamilton, the transferee, then, would be assigned to replace Hutchins.

(The record is silent as to the circumstances under which Greenwood made these decisions, and the manner in which they were communicated to the employees involved. Greenwood testified, however, without qualification, that she had discussed the projected shift with Hutchins and Hobbs sometime prior to the arrival of Mrs. Hamilton in Redden's company. Upon the entire record, also, I am satisfied with respect to Greenwood's awareness, at the time, of the fact that Mrs. Hamilton was scheduled to be the re-

placement for Hobbs. I find that she was aware of the projected reassignment when she outlined the shifts to be effectuated to the girls under her direction.)

At 9:00 o'clock, approximately, Redden asked Mrs. Hamilton to accompany her to the large conveyor. The taping machine operator did so. Upon their arrival, Redden informed Greenwood, then relieving another employee at a work station on the conveyor approximately 25 feet away, that Mrs. Hamilton was ready for her temporary assignment. Greenwood, I find, waved her arm in acknowledgment; this action served as a signal to Hobbs, who immediately left her station on the conveyor, immediately adjacent to the "take-off" station, and went off to assume her temporary assignment as the Respondent's repair girl. Simultaneously, Jo Hutchins, then assigned to the "take-off" station, stepped into the station which Hobbs had vacated. Betty Cave, the relief girl assigned to serve as a general assistant to Greenwood on the conveyor, indicated to Mrs. Hamilton that she would have to work at the "take-off" station. She—Mrs. Hamilton—did so, and productive operations on the conveyor continued without interruption. The taping machine operator, I find, had no opportunity to discuss her assignment. And Greenwood's testimony establishes that she proffered no instructions as to the way in which the job was to be performed.

(These factual findings as to the method by which Mrs. Hamilton was given her assignment

on the Respondent's big conveyor are based upon a synthesis of the available testimony. Mrs. Hamilton testified that Redden left her with Cave, and that it was Cave—with Greenwood's acquiescence—who directed Hobbs to leave for the "repair" station, shifted Hutchins to the wire station thus vacated, and then assigned her (Mrs. Hamilton) to the "take-off" station. Upon the entire record, however, I have concluded that the taping machine operator's version of the shift attributes too active a role to Greenwood's relief girl.)

Within a few minutes after her assignment to the "take-off" station Mrs. Hamilton, I find, asked Betty Cave for a pair of canvas gloves to protect her hands. The relief girl indicated that they would be procured for her.

(The record indicates that a number of employees assigned to the rotary conveyor wore gloves at work, occasionally at least, to protect their hands. And Greenwood's testimony, indeed, indicates that the girls at the "take-off" station customarily did so. I so find. These gloves appear to have been unfitted canvas work gloves of a type issued routinely to the employees, upon request. There is no indication, in the available evidence, that the Respondent had any fixed rule with respect to the disposition of such gloves. Some of the employees retained them until they became worn and useless; others, apparently, left their gloves in the cen-

ter of the conveyor table, and reclaimed them as needed. The testimony of Mrs. Hamilton establishes, however, without contradiction, that there were no gloves available on the table or otherwise, at the time of her assignment to the "take-off" station. Hutchins appears to have retained the pair she had been using there.)

Cave's testimony establishes, credibly and without contradiction, that it was her usual practice, upon the receipt of any request for gloves, to communicate the request to Section Foreman Kresin—and that the latter would bring them to her, after they had been procured from a storeroom with the assistance of the Respondent's janitor, in charge of the storeroom keys. It is her testimony, also, that Mrs. Hamilton's request was communicated to Kresin almost immediately. And this testimony has been corroborated by the section foreman. In the absence of effective contradiction, I find it credible. Mrs. Hamilton, however, insisted that the gloves were not, in fact, handed to her within fifteen or twenty minutes of her request, as Cave's further testimony would indicate; she received them, she says, just before the Respondent's morning "coffee" break. Upon the entire record, and my observation of the witnesses, I credit her testimony in this connection.

In the meantime, for almost an hour, Mrs. Hamilton experienced considerable difficulty at her work station on the large rotary conveyor. Her testimony with respect to the treatment she received from her

fellow employees is not too detailed; a synthesis of the available evidence, however, indicates that:

(1) She found the various harness wires pushed down tightly on the jigs, and sometimes tied, so that greater effort than usual, on her part, was required in order to lift each completed harness from the conveyor.

(2) Several employees at stations directly opposite on the conveyor laughed at her, and giggled at their work, in a manner which indicated to Hamilton that the employees involved relished her discomfiture at the "take-off" station. Greenwood also laughed, when looking at her.

(3) The rough surfaces to be found on every completed harness scratched her hands—as she jerked the harnesses loose and lifted them from the conveyor—and ultimately drew blood.

After approximately one hour in her new assignment, Mrs. Hamilton revealed herself to be in obvious distress. She described herself as "nervous" and "upset" when the regular rest period began. And several other witnesses have testified, credibly, that she was in tears.

(The Respondent argues, vigorously, that Mrs. Hamilton's testimony as to her difficulties at the "take-off" station should be rejected as incredible, because of her admission, as a witness that she made no complaint of any kind,

prior to her departure from the plant—either to her lead woman or the section foreman—about the harassment and mistreatment to which she had, allegedly, been subjected. And in retrospect, certainly, it would seem that a complaint, to someone, might well have been more in accord with “ordinary human behavior” or “standard operating procedure” under circumstances of the sort she has attempted to describe. There can be no doubt, however, on the present record, of her emotional reaction to the treatment she received, allegedly, after the reassignment now in issue. And, viewing the entire incident in the context of her evident distress, I cannot agree that her failure to choose a more rational course by way of reaction militates, seriously, against the credibility of her testimony.)

Leaving her station, during the rest period, Mrs. Hamilton sought the Respondent’s nurse in the “coffee room” of the plant. In answer to an inquiry as to whether Mrs. Barnes, the Respondent’s personnel clerk, could be found, Mrs. Hamilton was informed by the nurse that she (Mrs. Barnes) was not in the plant that day. The taping machine operator, I find, then sought her section foreman. Their conversation, after she found him, proceeded, according to Mrs. Hamilton, as follows:

I went up to Mel and I says, “Mel, I’d like to speak to you, please.” And he says, “All right, what is it?” I said, “Mel, I’d like to go home.”

He said, "What's the matter, are you sick? If you are, go see the nurse." I said, "Mel, what's wrong with me the nurse cannot help." He said, "Well, I hate to see you go." And I said, "Well, I just got to." And I said, "Don't you have to have a slip, an order for me to leave the plant." And he said, "I will fill it out and hand it in for you." And that was all I had to say to him at that time.

According to Hamilton, she then punched out and left the plant. Kresin's version of the conversation differs only in one significant respect. It reads, in the transcript, as follows:

. . . I happened to be in the aisle right at the tables and she met me there and told me she wasn't feeling well and wanted to go home. I says, "Ann, I can give you a pass to go to the nurse. I cannot issue a [pass] to leave the factory if you are not feeling well. You have to go through the nurse." I told her I hated to see her leave but if she was feeling bad [—] by that time she turned around and walked away from me [—] I told her I would issue a pass for the nurse . . . she said, "What is ailing me the nurse cannot do anything for me." I said, "Well, I still have to give you a pass for the nurse." . . .

Kresin denied that he ever told Mrs. Hamilton that he would make out a pass for her, and that she was free to leave. As a witness, he insisted throughout his tenure on the stand that he had merely indicated his willingness to make out a pass for the tap-

ing machine operator to take to the nurse, and denied any commitment to prepare a pass which would authorize her to leave the plant.

(The record establishes, and I find, that the Respondent maintained a regular procedure, pursuant to posted rules and regulations, under which passes might be issued to employees wishing to leave the plant for personal business during their shift, or because of a sudden illness. In cases involving personal business during working hours section foremen appear to have been authorized to issue passes, in their own discretion, which the worker involved would have to deposit with Mrs. Barnes at the Respondent's personnel office en route to the gate. In cases involving sudden illness, the procedure appears to have called for the preparation of duplicate passes by the section foreman which the affected employee would be required to present at the office of the Respondent's first aid nurse; after treatment, if the nurse indicated her concurrence as to the employee's inability to work, an appropriate notation would have to be made on the second copy of the pass, and the employee involved would have to present it to his or her section foreman, prior to any departure.)

Upon the entire record, I find Kresin's version of the conversation now in issue more worthy of credit. Mrs. Hamilton, generally, did impress me as an honest witness, testifying to the best of her recollection.

It is clear, however, that she was distraught at the time of her conversation with the section foreman, whereas Kresin was not. And in view of the section foreman's obvious need to retain the services of every available employee—after his makeshift attempt to replace the firm's absent repair girl—I could not accept, easily, any contention that Mrs. Hamilton's departure would have been facilitated by him, under the circumstances revealed by the record. I find it to be more than probable, instead, that Kresin, in fact, did nothing more than indicate his willingness to make out a pass for presentation by Mrs. Hamilton to the Respondent's nurse, and that the taping machine operator, in her distress, misconstrued his statement as a promise, in substance, to relieve her of any need to comply with the firm's posted rule. In reliance upon this interpretation of Kresin's remarks, apparently, Mrs. Hamilton left the plant without securing any sort of document from him, for delivery to the nurse or the desk of the personnel clerk.

(In rejecting Mrs. Hamilton's version of the conversation now in issue, I have also rejected the corroborative testimony offered, to the same effect, by her husband. Although he may not have been emotionally involved, at the time, his version of the incident closely parallels that of Mrs. Hamilton; I am convinced that his recollection of it has been influenced and colored by hers.)

On the morning of the 1th, when she reported for work, Mrs. Hamilton found that her time card was not in its regular place. Upon inquiry of Mrs. Barnes as to the reason for its absence, she was advised to see her foreman. She did so. Her testimony with respect to the conversation that ensued reads as follows:

I went up to Mel and I asked Mel why I had to see him before I went to work and why my time card was pulled. And he says, "Well," he says, "You left the plant yesterday without permission." And I said, "Mel, you told me that you would fill out the slip and hand it in for me." And he said, "You ought to know you can't do anything like that." And I said, "How am I to know you can't do anything like that? You told me you would." And he said, "I don't know nothing else about it. You will have to see Mr. Harms."

The section foreman's testimony as to the conversation indicates merely that he referred Mrs. Hamilton to Plant Superintendent Harms for the answer to her question. The taping machine operator's version, however, as set forth above, contains more circumstantial detail, and the sentiments attributed to Kresin by her are consistent with the position which the Respondent ultimately took. I see no reason to doubt the accuracy of her recital, therefore, and accept it as a correct report of the section foreman's remarks.

Harms, according to Mrs. Hamilton, whose testimony in this connection has not been denied or contradicted, reiterated the Respondent's belief that she had "walked off the job" the day before. The taping machine operator's attempt to explain "what had happened" in the course of her rest period conversation with Kresin were met with a further reiteration, by the superintendent, of the Respondent's belief. Mrs. Hamilton then asked if she had been terminated—and Harms replied in the affirmative. She has performed no work for the Respondent since. On February 12, 1954, she visited the Board's Los Angeles office, to file the initial charge in the instant case.

E. The Discharge of Mrs. Evans

Mrs. Evans, I find, began work for the company on April 2, 1953; most, if not all, of her service appears to have been as a checker or inspector in the "finished assembly" department, under the administrative supervision of Section Foreman Kresin and the work jurisdiction of Alex Gordon—the latter being directly responsible, within the department, for the effective performance of the "inspection" function.

Her activity on behalf of the Mine Workers Union, before and after the year-end holidays, has already been noted. While that union's organizational activity was at its height, Mrs. Evans appears to have functioned aggressively as the "chairman" of its campaign. And, as such, she would necessarily

be well known to the other employees as a UMW adherent. Such, in fact, was the case.

(The record shows that Mrs. Evans, on several occasions, found "doohiekeys" made of scrap material on the overhead conveyor hooks passing her work station; these objects, otherwise indescribable, usually bore tags with comments of a derogatory character about the checker or the Mine Workers organization. Their origin has not been established; Mrs. Evans identified Dorothy Randall, the IAM's vice president, as the originator of two, only. It may be inferred, of course, that they were prepared by IAM supporters on the production line and that they were intended as a mild form of ridicule directed to Mrs. Evans as the UMW chairman. There is no evidence that the Respondent's management was actually aware of the "horseplay" involved, however.)

For the entire period of her employment, Mrs. Evans appears to have been considered an efficient and capable worker. Responsible representatives of the Respondent have, indeed, conceded that her record as a checker was beyond reproach. I so find. A synthesis of the available evidence, however, will also compel a conclusion that she was frequently involved in cross-complaints and controversy with fellow workers. Alex Gordon, the firm's chief inspector, testified credibly that bickering and arguments involving Mrs. Evans, and some of the other workers in her area, developed throughout her

period of employment. Several instances of friction, apparently, were brought to Gordon's personal attention—and, through him, to the attention of other supervisors.

(In his brief, Respondent's counsel described Mrs. Evans as truculent. There is a suggestion, however, in the testimony of Gordon and several others, that most of the controversies in her work area involved disputes over the equitable distribution of the work, and that Mrs. Evans—admittedly an efficient worker—was being subjected, perhaps unjustifiably, to complaints grounded in the unwarranted resentment of less capable employees. Gordon also suggested that she may have been unduly sensitive. For the purpose of our present inquiry, however, I find it unnecessary to fix the blame for any of these early disputes.)

On May 4, 1954, Mrs. Evans became involved in such a controversy with Lauretta Brown, another inspector. The available evidence is somewhat in conflict with respect to the origin and nature of their dispute; upon the entire record, however, it would appear to have involved a question on the part of Brown, again, as to whether Mrs. Evans was performing her equitable share of the inspection work. Dorothy Randall, an incumbent union official, was asked by Brown, I find, to apprise General Foreman King of the controversy. Each of the employees, thereafter, discussed the situation with the general foreman; their stories, apparently, were

contradictory. The general foreman, I find, advised them both that he would hear no more, and that he did not believe either version of the dispute offered for his consideration to be completely accurate. He insisted, finally, that Brown and Mrs. Evans would have to "get along" with each other, and that "any" further disagreement would lead to their discharge. The two employees were advised of his intention to have a written notice of this ultimatum placed in their personnel files. And when the discussion ended, I find, the general foreman did, in fact, write the promised note in regard to each employee. Dated as of May 4, 1954, each note read as follows:

On this date above employee was warned and told that any future disagreements would mean her dismissal.

The notes were signed by the general foreman and placed in the Respondent's personnel files, as indicated.

Later in the day, Evans testified, she went to King with an apology, but protested his "final warning" on the ground that she had not been at fault in the controversy. The general foreman, according to Mrs. Evans, then advised her that if "anything else" came up she would have to "come in" and advise him of it directly, since he did not wish her to "argue" about anything in the plant. King, as a witness, could not recall such a conversation; he did not, however, enter a denial. I find

therefore, in accordance with the testimony of Mrs. Evans, that she was thus advised.

On June 3, 1954, however, a new cause of difficulty developed. Mrs. Evans, as a witness, provided the only testimony with respect to its nature and origin.

(Her version of the situation is not inconsistent with the balance of the record, and certainly could not be characterized as inherently incredible; I have found it worthy of acceptance.)

In substance, the checker testified that Employee Brown, in a discussion not initiated on company time, accused Mrs. Evans and her brother, J. C. Hamilton, of certain derogatory comments with respect to her work. Mrs. Evans, according to her testimony, disclaimed responsibility for the remarks attributed to her, and subsequently discovered—by independent investigation—that Brown's accusation had, in fact, been based upon a misconstruction of certain remarks about her by another employee. On June 4, 1954, before work began, the checker attempted to explain the situation to Brown. The latter, however, I find, persisted in angry recrimination.

Shortly after the morning rest period, therefore, Mrs. Evans went to see the Respondent's general foreman. Saying that she was following his most recent instructions, Mrs. Evans reported Brown's anger with her over a fancied slight; insisted that

the incident giving rise to Brown's anger had been a subject of discussion during their "free" time; and that she—Evans—was not really involved in an argument with her fellow checker; and declared her desire to report the situation before a "twisted" story in regard to it became current. Overriding a protest by the checker, King summoned Brown to his office for her version. Brown's recital, however, differed sharply from that of Mrs. Evans, both with respect to the nature of the incident which had given birth, allegedly, to her anger, and with respect to the course of the discussion which had then ensued.

(Mrs. Evans testified, credibly, that she and Brown had each described the discussion between them as one which had not been carried on during working hours. The general foreman's recollection of the incident, however, appears, understandably, to be somewhat confused. He could not, as a witness, recall such a representation by either employee, but made no attempt to deny it. Upon the entire record, I am convinced that he was, in fact, so advised.)

After listening to each of the employees King cut the incident short, I find, with the announcement that both of them would be discharged. According to Mrs. Evans, the general foreman declared, in words or substance:

* * * "Loretta, I guess you know I have warned you. I told you the next time any dis-

pute between you two I was going to fire you both * * * This is it."

Section Foreman Kresin was called and advised of the general foreman's decision. Mrs. Evans, however, did not accept it; she and her brother, who now entered the discussion, continued to urge consideration of the fact that she had not, intentionally, done anything to arouse Brown's ire, and that all of her attempts to mollify Brown and disclaim responsibility for the remarks improperly attributed to her, had been confined to non-working time. King insisted, however, that his mind was made up, and that his decision would stand.

Mrs. Evans, I find, then attempted to carry her protest with respect to the alleged injustice of the general foreman's decision to the Respondent's production manager. Simon, however, cut short her request that he overrule King's decision; he advised the checker, in substance, to press her protest as a grievance, under the contractually established grievance procedure. Mrs. Evans accepted this advice; her grievance "case" was initiated, I find, with the assistance of Betty Cave, the incumbent union's committeewoman for the "finished assembly" department.

(The record reveals a testimonial conflict as to whether Cave had displayed hostility in this connection, and as to whether she had initiated the grievance for Mrs. Evans willingly. For reasons to be noted elsewhere in this report,

however, I have found it unnecessary to consider the conflict revealed by the record in this connection. Whatever her personal reaction to the situation may have been Cave did, I find, initiate a grievance in the checker's behalf.)

Brown, as the record shows, also filed a grievance. She and Mrs. Evans were each invited to state the basis upon which they chose to protest General Foreman King's decision to discharge them, and to name the witnesses they wished to present in support of their respective contentions. Mrs. Evans named several—Alex Gordon, the "chief inspector" being one.

Thereafter, on a date not set forth in the record, the grievances were heard. Under the contractually established procedure, each of the employees involved was afforded an opportunity to protest King's decision before a Grievance Committee consisting of four members—two plant employees designated to serve as the IAM representatives, and two spokesmen for the respondent company. Production Manager Simon, and Superintendent Harms, I find, served as the company representatives.

Considerable testimony was received, in this case, with respect to the procedure which the Grievance Committee followed. Each of the aggrieved employees, apparently, was heard separately. Committeewoman Cave, however, as their accredited representative, was permitted to be present. Thereafter,

the record shows, the committee heard only one of the employees named by Mrs. Evans as a witness in support of her grievance. King and Kresin were also asked to testify. No further witnesses were heard.

(The decision to conclude the testimony appears to have been a unanimous committee decision. The testimony of Mrs. Evans indicates, however—in the absence of effective contradiction or denial—that Cave, as her representative, made no attempt to persuade the Committee that the other employee witnesses desired by her ought to be heard. And I so find.)

In the end, the Grievance Committee—by a unanimous vote apparently—sustained the action of the Respondent's general foreman, insofar as Mrs. Evans was concerned. Brown's dismissal, also, was affirmed.

Mrs. Evans, however, made one more attempt to reclaim her position in the Respondent's employ. In a subsequent conference with Freeman Brown, an IAM business representative, she protested the Grievance Committee's refusal to hear all of her employee witnesses, allegedly in a position to give testimony before it with respect to the propriety of the general foreman's determination that she and Loretta Brown had been involved in a "disagreement" which warranted their discharge. Business Representative Brown was asked, I find, to carry her grievance to the next step or, at the very least, to argue for a reversal of King's decision by Pro-

duction Manager Simon on the basis of the Grievance Committee's alleged failure to accord a "fair" hearing to the aggrieved employees. The checker was advised, however, that the concurrence of the IAM representatives on the Grievance Committee with respect to the propriety of her discharge precluded further action by the organization in her behalf, as a matter of right, under the contractually established grievance procedure. The business representative did, I find, promise to make informal representations to the Respondent's local management in her behalf. The record does not reveal, however, whether any such representations were, in fact, made. If made, they were ineffective. Mrs. Evans has performed no services for the Respondent since her discharge.

Conclusions

A. Interference, Restraint and Coercion

Under established decisional doctrine, fully explicated in decisions of this agency too numerous to cite, it would seem to be entirely clear that the Respondent's posted announcement with respect to the participation of its employees in "union campaigning" during working hours, or on company time, involved nothing more than the permissible exercise of a management prerogative. The General Counsel, indeed, makes no contrary argument. It is, instead, his contention, as set forth in the Consolidated Complaint, that the management of the firm extended the "thrust" of its policy announcement

—described as a no-solicitation rule—unlawfully. I find merit in this contention.

Early in January, 1954, as previously noted, in this report, Foreman Clyde Casey demanded that an employee, James A. Juhl, submit to him certain executed membership applications or authorization cards secured by the employee on behalf of the UMW during non-working time. This demand, as the record shows, was implemented by a threat of discharge. Confronted therewith, Juhl felt compelled to return the cards to the employees responsible for their execution, and to report their return to his foreman. The Respondent has adduced no evidence that the cards in Juhl's possession had, in fact, been solicited or procured on "company" time. Even if such evidence could have been offered, however, a demand that the cards be surrendered to a supervisory employee would clearly be worthy of characterization as unwarranted. Casey's demand, and his subsequent insistence that the right of an employee to "campaign" for a new union representative, under all circumstances, would be contingent upon the expiration of the incumbent union's contract, a representation election, and notice to the Respondent's office, clearly represented an unlawful intrusion upon the statutorily guaranteed right of Respondent's employees to engage in concerted activity for their mutual aid and protection.

(The Respondent's Answer admits that Juhl was asked to surrender "certain cards" but alleges that he had been using the cards to secure

applications during working hours; it is further alleged that Casey's demand had been calculated to "enable" Juhl to devote himself to his work during working hours, and that the cards, if surrendered, would have been returned to Juhl by Casey after his shift ended. These averments in the Respondent's Answer, of course, cannot be treated as evidence.)

Shortly after Casey's attempt to intimidate Juhl, as I have found elsewhere in this report, the employee was again admonished—this time by the Respondent's production manager—about "campaigning" on company time. In the light of the available evidence, taken as a whole, I am satisfied that the conversation in which Simon thus admonished Juhl took place after the Respondent's "no-solicitation" policy was announced—or, at the very least, after the production manager had received his instructions with respect to the position which the firm might appropriately take. On the basis of Simon's actual course of conduct, thereafter, as revealed by the record, I am convinced that he was engaged in a genuine effort, to implement the Respondent's policy, as he understood it. In conformity with this conclusion, I have, elsewhere in this report, rejected Juhl's sweeping generalization that he was instructed to campaign "off the company property out of the company time" as grounded in error. The production manager, however, has not denied that Juhl was instructed to desist from union activity during official rest periods, on the ground

that such periods were “company” time; the Respondent’s Answer, indeed, admits that such instructions were given—and I have found, elsewhere, that Simon so construed the Respondent’s posted announcement. As a matter of law, however, such a construction must be characterized as erroneous. In making it, the production manager was guilty of an unwarranted extension of the Respondent’s undoubted right to prohibit union activity during working hours. *Republic Aviation Corp. v. N.L.R.B.*, 324 U. S. 793, 16 LRRM 620; *N.L.R.B. v. Monarch Machine Tool Company*, 210 F. 2d 183, 33 LRRM 2488, 2491-2492 (C. A. 6), and the cases therein cited; *Peyton Packing Company*, 49 NLRB 828, 843-844, quoted with approval in the *Republic Aviation* case, above. And in the absence of any retraction, then, there can be no doubt that the position taken by the Respondent’s principal representative, in this connection, interfered with, restrained and coerced its employees, in their exercise of the self-organizational rights guaranteed under the statute, as amended. I so find. And Juhl testified, specifically, that his own activities were curtailed in compliance with Simon’s instruction, as given.

(The General Counsel also argues, however, that the Respondent “unlawfully enforced” its posted policy when Simon warned Juhl, in the Middle of February, that certain remarks he had previously made to some of his fellow employees, outside the plant and on non-working time, involved campaigning on “company time

and property," in defiance of the Respondent's announcement. This contention I find to be without merit. Juhl's testimony merely indicates that he had told several employees that workers at the Respondent's Anaheim plant were being compensated at higher hourly rates than those prevailing in San Diego, and that Simon had accosted him, primarily, to challenge the accuracy of the statements he had made. Although Juhl's testimony would seem to indicate that he was also warned, for a second time, about "campaigning" on company time and property, it is admitted that the production manager did not specify the type of "campaigning" to which his admonition referred. The mechanic has indicated that he, personally, construed the plant manager's comment as a reference to "wearing buttons and stuff like that" and not as a specific reference to the dissemination of the Anaheim rumor. Since I am entirely satisfied, in any event, that Simon never intended to enforce a sweeping prohibition of organizational activity, irrespective of its timing, on company property, I find the available evidence insufficient to establish the contention that the production manager by virtue of his reference to the rumors about the Anaheim plant, intended to warn employees against the expression of arguments or opinion related to the "factional" dispute within their ranks on company property during non-working time.)

It is also contended, by the General Counsel, that the Respondent enforced its policy with respect to union activity on company time discriminatorily, in certain specific respects. I find merit in the contention.

Whatever degree of good faith may be attributed to Production Manager Simon in a difficult situation, it would seem to be clear, upon the record as a whole, that an equally well-intentioned application of the Respondent's policy cannot be attributed to Kenneth King or Section Foreman Kresin. Elsewhere in this report, it has already been found that King, on the 8th of February, directed Mrs. Hamilton to remove her UMW button, on the ground that its display involved union "campaigning" on company time. And Section Foreman Kresin, it has been found, imposed a similar requirement on the morning of February 10th. In each instance, it is clear, the supervisors were acting to mollify the IAM supporters in the plant, and to allay their expressions of discontent. The record establishes however, in the absence of any attempt at denial or contradiction, that some, if not all, of the IAM adherents were openly wearing buttons indicative of their "loyalty" to that organization. Any button display obviously constitutes an open declaration with respect to the sentiments of the wearer. It may certainly be inferred therefore—and I do infer—that the firm's responsible officials were aware of the buttons being worn by each organization's partisans in the "factional" dispute then current.

Simon conceded as much. Under such circumstances, the attempts of King and Kresin to enforce a requirement that UMW buttons would have to be removed were clearly discriminatory. They were, in short, reasonably calculated to, and did, interfere with, restrain and coerce the employees of the Respondent in their exercise of those self-organizational rights which the statute was enacted to guarantee. Graber Manufacturing Company, Inc., 111 NLRB No. 20, 35 LRRM 1435; Century Cement Manufacturing Company, 100 NLRB 1323, 1324, n. 5. And I so find.

(The General Counsel has, by appropriate motion, withdrawn any contention that Production Manager Simon engaged in a similar unfair practice when he directed an employee, Gerald W. Pipmeier, to remove his UMW button on a specified date. There is testimony by J. C. Hamilton, however, which attributes a similar statement to the production manager, insofar as he was concerned. Upon the entire record, and for the reasons previously noted, I have found this testimony unworthy of acceptance.)

The General Counsel also argues that the Respondent discriminatorily enforced its posted policy announcement by the "acquiescence" of Production Manager Simon in the circulation of petitions at the plant, on company time, by supporters of the incumbent union, and by his "acquiescence" in the circulation of certain cards or petitions, by an IAM

committeewoman, by means of which the employees were urged to retract their UMW designations, if any, previously executed. These allegations, however, in my opinion, have not been proved. The record does indicate a possibility that two petitions may have been circulated during the period with which we are concerned. One appears to have been a petition, signed initially by an incumbent union committeewoman, pursuant to which more than 50 of the Respondent's employees requested an opportunity to confer with the firm's production manager. There is no reliable evidence, however, that any management representative knew of its circulation and execution prior to the time of its presentation. And upon its presentation, by an employee delegation, the production manager, insofar as the record shows, took the position that its circulation had involved an error, and that the employees would have to seek advice, as to the courses of action open to them in the face of organizational activity by a rival union, from their own union representatives. The second petition to which the record refers has been described, without effective contradiction, as a "TV" petition, addressed to a local television station; however disruptive of production its circulation may have been, it would seem to be clear that the problems implicit therein cannot properly claim our attention.

(If, in fact, the circulation of such a petition did involve some activity, unspecified, in behalf of the incumbent union, the fact has not been proved.)

With respect to the allegation that the Respondent, through its production manager, acquiesced in the circulation of cards or petitions calculated to invite a "retraction" or revocation of previously executed UMW designations, the record is likewise meager. Two employees—Mrs. Evans and James A. Juhl—testified that the alleged activities of Goldie Riggins and Dorothy Randall in connection with the circulation of such cards or petitions had been called to Production Manager Simon's attention; it should, however, be noted that neither of the employees testified, in circumstantial detail, with respect to the actual time and manner of their circulation.

(Juhl's testimony with respect to one occasion when Goldie Riggins showed him a document and sought to discuss it, on company time, gives no indication that the Respondent's management was aware of the incident.)

Although the testimony of Juhl and Mr. Evans would seem to suggest that the Respondent's production manager paid little or no attention to the complaint that IAM activity in derogation of the Respondent's posted policy had been undertaken in the plant, there is no reliable evidence of an outright refusal on Simon's part to investigate the charges, and no proof that he did not do so. No UMW supporter actually solicited for a revocation of his union designation, on company time, has been offered as a witness, and the name of no such employee has ever been cited to the production man-

ager, insofar as the record shows. If, in fact, the Respondent's management knowingly permitted such activities in the plant, during working hours, by adherents of the incumbent union, the discriminatory enforcement of the company's announced policy against "union campaigning" on company time would have been patent. Upon the entire record, however, I am constrained to find that the specific discrimination alleged in this connection by the General Counsel has not been established by a preponderance of the reliable and probative evidence. None of my conclusions with respect to the discriminatory enforcement of the company's posted policy have, therefore, been grounded upon the alleged "acquiescence" of the Respondent's management with respect to activity otherwise interdicted.

Upon the record as a whole, then, I have found that the Respondent, by its officers, agents and employees, did enforce its posted policy with respect to "union campaigning" on company time unlawfully and discriminatorily. My conclusions, however, are merely based upon Foreman Casey's demand that James A. Juhl surrender his accumulation of executed UMW membership applications or authorization cards, the statements of Production Manager Simon to Juhl that union activity would be prohibited at the plant during established rest periods, and the insistence of General Foreman King and Section Foreman Kresin that Mrs. Hamilton would have to cease wearing her UMW button, in

the absence of any similar requirement imposed with respect to the wearing of IAM buttons or badges. By these acts and statements, attributable to its officials and supervisory personnel, the Respondent interfered with, restrained and coerced its employees in the exercise of rights guaranteed by the Act, as amended. I so find.

B. Mrs. Hamilton's Discharge

1. The Issues

With respect to Mrs. Hamilton, the General Counsel contends that a discriminatory transfer took place on February 10, 1954, when the employee, regularly utilized as a taping machine operator, was reassigned to other work of a more "difficult and disagreeable" character at the Respondent's large rotary conveyor because of her participation in concerted activity with other employees for the purposes of collective bargaining or other mutual aid and protection; that the Respondent, by virtue of the discriminatory work assignment, caused her to leave the plant on the indicated date; and that its management then relied upon her action in leaving the plant as a pretext for his discharge. The Respondent, by way of reply, alleges that Mrs. Hamilton's last transfer was a temporary measure to fill a vacancy, due to the absence of another employee. It is further alleged, in the Respondent's answer, that Mrs. Hamilton was not "caused" to leave the San Diego plant on the 10th of February by any course of conduct attributable to her em-

ployer, and that she left of her own accord, without the permission of any responsible management official. On this ground, the Respondent contends that Mrs. Hamilton was discharged for cause, the cause in question being the "abandonment" of her employment at the Respondent's plant.

With the issue thus joined, a number of questions must be answered before any decision can be reached. Among those suggested by a cursory review, the following may be noted: Was Mrs. Hamilton deliberately selected for the temporary reassignment, in order that she might be subjected to harassment in a new post? If selected without discriminatory intent, was she, nevertheless, subjected to such harassment after her reassignment, because of her antecedent activity as a UMW supporter? And, whatever the evidence may show, was she selected for reassignment or subjected to harassment thereafter, by individuals for whose conduct the Respondent may be held liable? These questions, it is clear, must be answered in the affirmative, at the threshold of inquiry, before it can be said that the General Counsel is entitled to prevail.

If they can be affirmatively answered, however, other questions arise. Was the difficulty encountered by Mrs. Hamilton at the large rotary conveyor sufficient to excuse her departure from the plant? Or, in other words, may the treatment she received at the "take-off" station appropriately be characterized, in fact and in law, as a constructive discharge? If so, did her failure to comply with

the Respondent's established rule in regard to the procurement of a pass before departure provide "just cause" for her termination, and deprive the General Counsel of any justification for a claim that her discharge was effectuated because of her participation in protected concerted activity? And, if it did not, may the Respondent be relieved of liability for her discharge, nevertheless, because Plant Manager Simon and Superintendent Harms, who ordered her termination, were unaware, when they did so, of the fact that her departure had been forced? Or, in the alternative, may their responsibility—and the Respondent's liability—be determined on the basis of the facts as found, on the assumption that they may appropriately be charged with constructive notice of the events which actually induced Mrs. Hamilton to leave? To a consideration of these questions, then, we must now turn.

2. Analysis

a. The Reassignment

The record establishes that Mrs. Hamilton, during her employment, had previously served extensively on the so-called "small conveyor" at which harness sub-assemblies are fashioned. In the course of such assignments, Mrs. Hamilton testified, she had been called upon to serve at every type of station—the "wire" stations, at which prepared wires are placed on the moving jigs; the "taper" stations, at which the wires on the jig are wrapped with

plastic tape; and the "take-off" station, at which the completed sub-assemblies are removed and placed on a hand truck for transfer to the "big" conveyor. And the record also shows that Mrs. Hamilton, for a period of several weeks in November and December, had worked, at her own request, at the firm's large rotary conveyor. Her services during this period had been limited, it is true, to work as a "taper"—and briefly, thereafter, to work at a "wire" station.

(She had never been assigned to the "take-off" station.)

Upon the entire record, however, it is clear that Mrs. Hamilton could not be described as an employee without experience, insofar as work on the conveyors is concerned.

The General Counsel, nevertheless, appears to contend that Mrs. Hamilton was selected discriminatorily—and with deliberate malice—for the assignment which ultimately led to her separation from employment. Insofar as the record shows, this contention appears to be based, in the main, on the testimony of Eunice Ford, previously noted. I have found that testimony unworthy of credit. Even if it could be accepted, however, it would be insufficient, in my opinion, to sustain the General Counsel's contention. At the most, it would only support a conclusion that Ford, as an official of the IAM local, maliciously suggested Mrs. Hamilton's reassignment to the large rotary conveyor, presumably

as a reprisal for her activities in behalf of the Mine Workers organization. Assuming, arguendo, that she did so, the evidence sufficient to warrant the conclusion, nevertheless, would stand in isolation. An inference would have to be drawn that Ford had been aware, at the time, of the fact that Hobbs had been scheduled to leave the conveyor. Her testimony, it is true, indicates such an awareness. But a further inference would have to be drawn, to the effect that Redden, after receiving Ford's suggestion, conveyed it to Kresin—the individual actually responsible for the taping machine operator's reassignment—and that he was aware of the motivations behind the suggestion, and shared them. Upon the entire record, I find the inferential link in the suggested chain of causal logic too weak to sustain the General Counsel's contention.

(J. C. Hamilton's testimony that Kresin had delegated the choice of a replacement for Hobbs to Redden is rejected as unworthy of credit.)

In the light of the available evidence, instead, I am satisfied that Kresin was apprised by Redden of the Respondent's immediate need for a replacement at the "repair" station, that Hobbs was selected as the replacement on the basis of his disinterested evaluation of her experience and ability, and that Mrs. Hamilton, in turn, was selected by the section foreman, after his consultation with Redden, for reassignment to the "big" conveyor, nondiscriminatorily, because of her previous experience there.

(J. C. Hamilton, as a witness, testified that Kresin had been asked—after Mrs. Hamilton left the plant, as noted—why “they” were still “picking” on his wife, and that Kresin had declared his unawareness of the fact that she was being harassed. According to Hamilton, Kresin was then told that “they” had selected Mrs. Hamilton for the conveyor assignment in preference to other qualified employees, and that it looked as if she was being selected discriminatorily; Kresin disclaimed partiality, however, according to the packer, and protested that he had had nothing to do with any of the harassment allegedly suffered by Hamilton’s wife. And Mrs. Hamilton, as a witness, testified that she had not seen Kresin “immediately around” during her ordeal. There is not the slightest evidence, therefore, that Kresin’s protestations of personal innocence were false.)

No similar conclusions would be warranted, however, with respect to Mrs. Hamilton’s assignment, at the conveyor, to the “take-off” station. The record establishes, beyond any doubt, that Hobbs, at the time of her designation as the “repair” replacement, had been at a “wire” station. And, in general, it would seem that work at such a station would have been particularly suitable for Mrs. Hamilton as a replacement employee. At least, she had worked at a “wire” station on the conveyor previously.

(Betty Cave, as a witness, did testify that the station vacated by Hobbs was a "bell" station, at which certain "bell" attachments were affixed to each harness; and she did testify, further, that the task performed there required considerable speed and dexterity which Mrs. Hamilton could not be expected to possess on the basis of her limited experience. I find it significant, however, that no considerations of this type were cited by the section foreman, the lead woman, or anyone else, in justification of the Respondent's failure to utilize Mrs. Hamilton as a direct replacement for Hobbs, at the indicated "wire" station. A bell, in the sense indicated by Cave, would be nothing more than a special type of metal connector attached to a harness wire; it would usually be no more than one inch long and approximately three-eighths of an inch in diameter. In the absence of corroboration, therefore, I have not considered Cave's testimony, in this regard, as sufficient to warrant a conclusion that Mrs. Hamilton was denied assignment as a direct replacement for Hobbs for reason of productive efficiency.)

Upon the entire record, then, I am convinced that Greenwood arranged the double employee shift, which ultimately left the "take-off" station vacant, as a deliberate maneuver, in order to make possible Mrs. Hamilton's assignment there. Why was this done? Greenwood's testimony, in this connection,

must be characterized as refreshingly frank. She identified herself, in substance, as an adherent of the incumbent union, and admitted her awareness of Mrs. Hamilton's activity in the UMW's behalf. Her testimony establishes that she and a number of the other employees had, at various times, discussed the "problem" created by the UMW campaign and the action which could be taken to "relieve" the situation. When questioned, in regard to this discussions, Greenwood testified as follows:

Q. Well, do you recall having said anything at all?

A. I didn't like the idea of them coming in.

Q. Do you recall * * * that you wanted to make them unwelcome? A. Yes.

Q. Do you recall whether you made any suggestions of what should be done to make them unwelcome?

A. To give them jobs that they didn't like to do.

Q. And did you say why you thought that they should be given jobs that they didn't like to do?

A. Because I understood that was the only way that they would leave the plant.

And, specifically, with reference to Mrs. Hamilton's assignment, Greenwood admitted that her designation of the taping machine operator for the "take-off" station had been effectuated with full knowledge of the fact that Mrs. Hamilton was, then,

a UMW supporter. The lead woman then testified, as follows:

Q. Did you consider the take-off job as a disagreeable job? A. No.

Q. Did you think that Ann would consider it a disagreeable job? A. Yes.

Q. Was that one of the reasons why you assigned the job to her? A. Yes.

I consider this testimony dispositive with respect to the issue of Greenwood's intent, in the situation now under consideration. There are references elsewhere in her testimony, it is true, to the fact that she considered Mrs. Hamilton an "experienced" employee, at least as well qualified to handle the "take-off" station as anyone else regularly assigned to the conveyor. And, in the abstract, this may very well have been true; absent an extended opportunity for observation, certainly, it would be difficult to challenge such a conclusion on the part of the Respondent's lead woman. In the light of the available evidence, however, no such challenge is necessary. It would seem to be entirely clear, on the basis of Greenwood's testimony, that a plan to assign the UMW supporters to disagreeable work, in order to "drive" them from the plant, had commended itself to her attention, and that the assignment of Mrs. Hamilton to the "take-off" station was, then, arranged pursuant to such a plan. And I so find.

(I find it worthy of note, in this connection, that Hutchins and Hobbs had, for some time,

been following the practice of rotating their stations at frequent daily intervals; this practice, apparently, had had Greenwood's approval. Despite the fact that their predecessor at the "take-off" station had held the assignment steadily, without rotation, the arrangements current between Hutchins and Hobbs certainly suggest that the "take-off" assignment, even under ordinary circumstances, would be burdensome. The production manager, indeed, described it as "not the most desirable spot" on the rotary conveyor.)

The assignment must, necessarily, be characterized as discriminatory, therefore, and its object designated as one statutorily proscribed.

b. The Respondent's Liability

May the Respondent be held liable, however, for Greenwood's course of conduct? The General Counsel would so argue, apparently, on the ground, at the outset, that Greenwood is a supervisor. I find the contention to be without merit. There was considerable testimony adduced, in this case, as to the extent of her authority. I find it unnecessary, however, to recapitulate that testimony in detail. Insofar as the supervisory concept may have been given some form and content by its statutory definition, in Section 2 (11) of the Act, as amended, it is clear that Greenwood's employment was related to that of a supervisor only to the extent that she possessed the authority to "transfer" employees as-

signed to the large rotary conveyor as between the several "work stations" at the conveyor table. The discretion exercised in this connection, however, was comparatively minor; in my opinion, it could not be characterized as anything more than routine. *Poultry Enterprises, Inc., v. N. L. R. B.*, 35 NRRM 2151 (C. A. 5); *N. L. R. B. v. Parma Water Lifter Company*, 211 F. 2d 258, 33 LRRM 2810, 2811-2812 (C. A. 9); *Precision Fabricators, Inc., v. N. L. R. B.*, 204 F. 2d 567, 32 LRRM 2268, 2269 (C. A. 2); *Gerber Plastic Co.*, 108 NLRB No. 73, 34 LRRM 1065, *Mother's Cake and Cookie Company*, 105 NLRB 75, 78-90. Greenwood, then, was not a supervisor.

Such a conclusion, however, will not dispose of the issue actually presented for our consideration. For the General Counsel has also contended that the Respondent may be held liable for Greenwood's activities nevertheless, since its employees have been given "just cause to believe" that her action in assigning Mrs. Hamilton to the "take-off" station was taken "for and on behalf of the management" of the firm. See *International Association of Machinists v. N. L. R. B.*, 311 U. S. 72, 80; *Walter Kocher and Co.*, 104 NLRB 1090, footnote two; *Ibid.*, at 1096, footnote ten. I find merit in the contention, even in the face of the available evidence as to the limited nature of Greenwood's authority.

Although the record, in my opinion, would not support any classification of Greenwood as a su-

pervisor, she is clearly an "agent" of the Respondent, at least insofar as her employment is concerned.

(The relationship of an employer and employee, or a master and servant, is, of course, nothing more than a specialized type of agency. 2 C. J. S. 1029, "Agency" § 2(c). An employee, to put the matter shortly, would seem to be nothing more than a special agent "employed for a particular purpose, thing, or class of work" and authorized to exercise limited powers, under restrictions imposed by his or her employer. *Ibid.* at 1036, § 3(d). Even in the absence of evidence sufficient to warrant a conclusion that Greenwood is a supervisor, therefore, the Respondent may be liable for her conduct, within the scope of her employment, under the "ordinary law of agency" which the Board is bound to apply. *International Longshoremen's and Warehousemen's Union, C.I.O. (Sunset Line and Twine Company)*, 79 NLRB 1487, 1507-1509, and the authorities therein cited).

A principal (employer) is considered to be liable, under the general rules of agency, for all of the torts committed by his agent (employee) while the latter is acting within the scope of his authority. And this liability will be given effect, as a matter of law, irrespective of the fact that the agent, in so acting, may have been seeking to protect some interest of his own as well—and, under certain circumstances, even in the face of evidence sufficient

to indicate that the agent's activity may have been wanton or malicious. Nor will the operation of the principle be affected by the fact that the duty violated may be one arising from a statutory provision. 3 C. J. S. 186-187, 192-193, "Agency" §§ 255, 258, 259. A determination as to whether any agent's tort was committed within the scope of his employment must necessarily be based, then, upon an inquiry as to whether the act involving the alleged tort was done in the course of the agency, and by virtue of the agent's authority, with a view to the principal's business. To state the matter otherwise, an agent's tort will be construed as action within the course of his employment when the agent, in performing it, was endeavoring to promote his principal's business, within the scope of the actual or apparent authority conferred upon him for that purpose. *Ibid.*, at 187, § 255. Compared 56 C. J. S. 272-275, 294, 320, "Master and Servant," §§ 561-563, 570, 572. These aspects of the "ordinary law of agency" are dispositive here. Whether or not Greenwood is a supervisor it is clear that her authority as a key employee includes the authority to effectuate transfers at the large rotary conveyor. Such transfers may be more or less routine. The discretion involved therein may be relatively minor. But, in practice, it is, I find, unreviewed. And the transfers, when made, are certainly made with a "view" to the business of Greenwood's principal, the Respondent in this case. They involve action taken "under the direction or control" of the Respondent's management. The lead woman's decision, therefore, to

create a vacancy at the large rotary conveyor for Mrs. Hamilton by the reassignment of Hutchins to the station vacated by Hobbs, was clearly a decision within the scope of her employment. She so testified. And if it was, in fact, discriminatorily motivated—as I have found—the Respondent cannot escape liability for it. I so find.

Again, the fact that Mrs. Hamilton was subjected to harassment at the “take-off” station could not have escaped Greenwood’s notice. Her responsibilities as a lead woman require her to maintain constant awareness with respect to the flow of work on the conveyor, the availability of the wire and the other necessary materials, the needs of employees with respect to relief—and, inescapably, the manner in which the work was being done. For this reason, and particularly in view of her express motivation for the assignment of Mrs. Hamilton to the “take-off” station, I find, despite her denials, that Greenwood was aware, at all material times, of Mrs. Hamilton’s situation. Yet the record does not reveal any effort, on her part, to eliminate or alleviate the taping machine operator’s difficulties. Such an “acquiescence” in the situation by the leadwoman, under all the circumstances, must likewise be imputed to her principal. *Ibid.*, at 189 § 255. And I so find.

c. The Constructive Discharge

Were the difficulties encountered by Mrs. Hamilton, at the large rotary conveyor, sufficient to ex-

cuse her departure from the plant? Opinions may differ. Viewed dispassionately, in retrospect, the “hazing” which she suffered might be characterized as relatively innocuous. It was purposive, however, and it did accomplish its purpose. It was sufficient, in short, to unnerve her and to cause her departure—that much is clear, beyond dispute.

(In reaching this conclusion, I have not relied upon the extensive testimony received with respect to the weight of the harnesses Mrs. Hamilton had to lift at the big conveyor, and the physical demands implicit in her assignment. In view of her lack of previous experience at the “take-off” station, on the conveyor in question, the strangeness of the assignment might well have been expected to contribute, somewhat, to her difficulties. The record, however, in my opinion, will not support any factual finding that the work, as such, involved any undue strain.)

The fact that an employee of greater resourcefulness and emotional stability might have withstood the treatment Mrs. Hamilton received, then, must be set aside as immaterial. In fact, and in law, she was constructively discharged. *Indianapolis Wire-Bound Box Company*, 89 NLRB 617, 622-623; cf. *Pacific Powder Company*, 84 NLRB 280, 281 and the cases therein cited. It is so found.

d. The Plant Rule

It has been found elsewhere in this report that Mrs. Hamilton, despite her emotional disturbance, questioned the section foreman, prior to her departure, with respect to the procurement of a pass to leave the plant. The inquiry, of course, established, beyond any doubt, her awareness of the plant rule or practice in this respect, previously noted.

(Mrs. Hamilton, the record shows, had previously been authorized, on several occasions, to leave the plant during regular shift hours because of illness, on passes countersigned by the Respondent's nurse, and for "business" reasons. As a witness, she admitted her knowledge of the procedure involved, and the pass requirement.)

The available evidence, previously noted, indicates that Section Foreman Kresin suggested the possibility of a pass for her to see the nurse, and that she rejected the suggestion as inappropriate since the nurse would be unable to "cure" her. Mrs. Hamilton has insisted that the section foreman then volunteered to prepare an appropriate pass for submission to the plant's personnel office, directly, after her departure. Her testimony, at least insofar as it imports a promise on Kresin's part to validate her departure, retrospectively, by the subsequent preparation of a pass, has been rejected. I am satisfied upon the entire record that the section foreman, instead, declared his reluctance to see Mrs.

Hamilton go because of the Respondent's need for her in the department that day, and that his offer of assistance, in connection with her departure, encompassed nothing more than a promise to prepare a pass for her to take to the nurse. This offer, it is clear, was rejected; Mrs. Hamilton left the plant, then, without any pass at all. In so doing, I find, she acted without regard to the apparent requirements of a reasonable and well-known plant rule.

Did her action, then, provide the Respondent with just cause for her termination irrespective of its antecedent causes, and vitiate the effectiveness of any claim that her discharge was effectuated because of her participation in protected concerted activity?

This question, in my opinion, must be answered in the negative. Mrs. Hamilton's constructive discharge involved discrimination with respect to the tenure of her employment, and the terms and conditions of her employment, reasonably calculated to discourage her activity in behalf of a labor organization. As such, it constituted an unfair labor practice, attributable to the Respondent, as I have found, under the established rules of agency. In the absence of any applicable plant rule designed to control unauthorized employee departures from assigned work stations, the firm's liability would be clear. In a context of unfair labor practices, should its presence as a factor in the case dictate a different result? I think not.

This case raises no question as to the right of economic strikers to withdraw their services without regard to the requirements of a valid and reasonable plant rule; nor do we have here a case involving any conflict between the application and enforcement of such a rule and the right of employees to engage in other forms of protected concerted activity.

The only question before us, indeed, on the present record, may be stated concisely as follows: May an employer responsible for a constructive discharge escape any obligation to redress the unfair labor practice involved because the employee subjected to discrimination failed to comply with the requirements of a plant rule in connection with a forced departure? Equity, with its "clean hands" doctrine would seem to compel the rejection of any such contention. He who would claim that the normal legal rights of another are impaired may not himself be guilty, wilfully, of illegal or improper conduct calculated to induce the very situation relied upon to warrant the impairment. Cf. *Mastro Plastics Corp.*, 103 NLRB 511, 513-515, 556-560. And since the Respondent, in this case, must be held liable for Mrs. Hamilton's constructive discharge, itself an unfair labor practice which goes to the very "heart" of the rights guaranteed by the statute, the effective administration of the national labor policy requires that it not be allowed to plead a forfeiture of Mrs. Hamilton's normal right to statutory protection because of an alleged

plant rule violation inseparably related to the very conduct for which it is responsible. I find no merit, therefore, in the Respondent's contention that Mrs. Hamilton's discharge was justifiable because of her failure to comply with the Respondent's established rule in regard to the procurement of passes prior to departure from the plant within shift hours.

The available evidence does establish, it is true, that Production Manager Simon and Superintendent Harms arranged for the taping machine operator's timecard to be "pulled" on the basis of Kresin's report that she had left the plant without a pass. And there is not the slightest indication in the record that the Respondent's managerial representatives—Simon and Harms—were actually aware, at the time, of the fact that Mrs. Hamilton's departure had been motivated, in any way, by the mistreatment to which she had been subjected.

(The production manager's undenied testimony establishes that Kresin was asked whether Mrs. Hamilton had given any reason for her expressed intention to leave, and that he had reported her as giving none despite a request on his part for some indication as to the basis for her evident distress. Kresin's testimony, as a witness in this case, however, is barren of any indication that he sought such a statement. The production manager, then, may actually have been acting on the basis of a misconception as to the existence or non-existence of a motivation for Mrs. Hamilton's departure.)

I find the absence of such knowledge, however, immaterial. The principle of respondeat superior, otherwise applicable here, cannot be characterized as inapposite merely because of the General Counsel's failure to establish that the management representatives immediately responsible for the discharge decision acted with direct and personal knowledge of the circumstances herein found sufficient to render their action an unfair labor practice. Cf. *Safeway Stores, Inc.*, 110 NLRB No. 242, 35 LRRM 1371; and see Section 2 (13) of the statute. I so find.

The record shows that Mrs. Hamilton made no effort to protest her discharge under the incumbent union's contractual grievance procedure. The Respondent has not relied upon her failure to utilize that procedure, however, in connection with its formal disclaimer of liability under the statute. And indeed, under established decisional doctrine, any such reliance on its part would clearly have been misplaced; the failure of a dischargee to file or prosecute a grievance has been held no bar to an otherwise meritorious unfair labor practice charge. *N. L. R. B. v. Radio Officers Union*, 196 F. 2d 960, 30 LRRM 2102, 2106 (1952), affirmed 347 U. S. 17; *Columbus Iron Works Co.*, 107 NLRB No. 283, 33 LRRM 1371, 1372, and the cases therein cited. See also Case No. 869, Administrative Rulings of the NLRB General Counsel, 33 LRRM 1138, for a discussion of the principles involved. This agency's power to prevent unfair labor practices is not de-

pendent upon the unavailability of any other means of adjustment or prevention.

E. The Discharge of Mrs. Evans

The discharge of Loraine L. Evans is described categorically in the Consolidated Complaint as a discharge because of her participation in concerted activity with other employees for the purposes of collective bargaining and other mutual aid and protection. This contention, with respect to her discharge, the Respondent merely traverses. Its answer contains no further reference to the incident. Under the circumstances, then, we must turn to the record for some elaboration of the issues involved.

At the outset, it would seem to be the General Counsel's contention that General Foreman King's decision to discharge Mrs. Evans and Loretta Brown on the 4th of June was discriminatory, as to the former, because of his failure to accept a contention that Mrs. Evans was actually blameless in connection with the incident relied upon to justify her discharge. And on the basis of her admitted participation in the UMW organizational activity and the Respondent's awareness of such participation, the General Counsel would seem to argue that the selection of Mrs. Evans for discharge was reasonably calculated to discourage membership in that organization. I find the argument unpersuasive.

The record reveals, beyond all dispute, that employee relationships in the inspection area of the Respondent's "finished assembly" department were

characterized by occasional controversies and cross-complaints while Mrs. Evans was employed there. Several of these controversies had, in fact, been brought to the management's attention before the UMW activity began. Mrs. Evans appears to have been regarded as a valued employee—and there is an implication, certainly, in the available evidence that these early controversies may have been attributable to failures of adjustment on the part of her fellow employees. Upon a complete review of each incident cited, indeed, such a conclusion might well be warranted. Its significance in the present context, however, would be peripheral at best. Basically, there is presented here a situation in which a supervisor, harassed with argument and conflict in a controversy between two employees, has advised both of them that no effort will be made to determine the justice of their respective claims, and that any further disagreement between them would lead to their discharge. Thereafter, a "disagreement" does eventuate and, pursuant to the notice previously given, each of the employees involved is dismissed. On the basis of the available evidence it may very well have been true—as the General Counsel seems to argue—that Mrs. Evans was blameless in the matter. She may not have given Loretta Brown any genuine cause for anger, and her involvement in the "disagreement" thereafter may have been limited to protestations of innocence. It may very well have been true, also, that none of the discussions incidental to the "disagreement" took place on company time. Upon the entire rec-

ord, however, I cannot find that the general foreman's failure to consider these aspects of the situation, and to hold Mrs. Evans blameless, stemmed from his opposition to the UMW's organizational campaign. Essentially, he seems to have been motivated by nothing more than a desire to eliminate a personnel problem, by the discharge of each employee involved in the controversy. This may have been an "easy way" to eliminate any need for hard judgment, and it may have been poor personnel practice; on the present record, however, I cannot find that it involved discrimination with respect to the employment of Mrs. Evans to discourage membership in a labor organization. *N. L. R. B. v. Clearwater Finishing Company*, 216 F. 2d 608, 35 LRRM 2069 (C. A. 4).

Although the contention is not presented, explicitly, in the Consolidated Complaint, the General Counsel would, apparently, also argue that Mrs. Evans suffered discrimination at the hands of the Respondent in the course of the Grievance Committee hearing held with respect to her discharge.

(It may have been the General Counsel's intention to argue that the Respondent's reaffirmation of its discharge action, in the course of the grievance proceeding, constituted an independent instance of discrimination statutorily proscribed. Alternatively, it may have been his intention, however, to contend that the absence of any protest by the Respondent in the face of the incumbent union's alleged failure to rep-

resent Mrs. Evans properly should be construed as evidence that her discharge by the Respondent had been discriminatorily motivated. The analysis which follows is intended, in either event, to dispose of the issue.)

Essentially, it seems to be the General Counsel's view that Committeewoman Cave, of the incumbent union, represented Mrs. Evans before the Grievance Committee with poor grace; that she failed to represent the dischargee adequately when she refused to insist upon her right, as an aggrieved employee, to have all of her proffered witnesses heard; and that Business Representative Brown, of the incumbent union, revealed that organization's indifference to the proper presentation of her grievance by his failure to keep a promise to be present. These evidentiary indications are, of course, attributable to the incumbent union; if that organization may be considered obligated, as the certified bargaining representative of the employees, to represent Mrs. Evans as honestly and effectively as it could, it may very well have been guilty of a failure to meet the obligation. The General Counsel would apparently contend, however, that the Respondent, too, had a duty to protest such misfeasance on the part of the incumbent union's representatives—or, at the very least, a duty to reject any benefits it may have derived therefrom. I find no indication in the statute, or decisional doctrine, of any such duty. The Respondent's representatives on the Grievance Committee may, conceivably, have been

aware of the incumbent union's alleged failure to present a case for Mrs. Evans in the most effective way. I find no justification, however, in that fact—if it is a fact—for a conclusion that the Respondent was thereby obligated to protest the incumbent union's failure, in substance, to challenge its discharge action effectively.

(Mrs. Evans, certainly, made no effort to invoke such a protest; nothing in the record indicates that she objected to the Grievance Committee's procedure, or to her representation by the IAM, at the time.)

Surely it would be anomalous for an employer to sit on "both sides of the table" in a grievance matter; how can it be argued that employers are obligated to make sure that any challenges addressed to their own antecedent action are presented vigorously and in the strongest possible way? The answer to this question would seem to be more than clear.

Since the Respondent, then, was under no duty in the premises, its failure to act cannot be characterized as a statutory violation. Nor can it, in my opinion, be considered indicative of a corporate state of mind antithetical to the assertion or defense of statutorily guaranteed rights. Any contention to the contrary must be, and it is, rejected.

IV.

The Effect of the Unfair Labor
Practices Upon Commerce

The activities of the Respondent set forth in Section III above, which occurred in connection with its operations as described in Section I above, have a close, intimate and substantial relationship to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V.

The Remedy

Since it has been found that the Respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom, and take certain affirmative action designed to effectuate the policies of the statute.

Specifically, since it has been found that the Respondent interfered with, restrained and coerced its employees, in the course of an attempt to enforce a prohibition, otherwise valid, on "union campaigning" during working hours, it will be recommended that it cease and desist from such conduct, and that it post notices declarative of its intention to do so.

It has also been found that the Respondent discriminatorily discharged Elizabeth Ann Hamilton on February 10, 1954, and that it has since failed

and refused to re-employ her because of her participation in concerted activity with other employees for the purposes of collective bargaining and other mutual aid or protection. It will, therefore, be recommended that the Respondent offer Mrs. Hamilton immediate and full reinstatement to her former or a substantially equivalent position, without prejudice to her seniority or other rights and privileges previously enjoyed. See *The Chase National Bank of the City of New York, San Juan, Puerto Rico, Branch*, 65 NLRB 827, 828-829, for a definition of the phrase "former or substantially equivalent position" as here used. It will also be recommended that the Respondent make her whole for any loss of pay or other incidents of the employment relationship which she may have suffered by reason of the discrimination practiced against her, by the payment to her of a sum of money equal to the amount which she normally would have earned as wages between the date of her discharge and the date of the reinstatement offer herein recommended, less her net earnings, if any, during that period. Cf. *Crossett Lumber Co.*, 8 NLRB 440, 497-498; *Republic Steep Corp. v. N. L. R. B.*, 311 U. S. 7 ff. Mrs. Hamilton's losses should be computed, I find, on a quarterly basis, in the manner established recently by the Board. See *F. W. Woolworth Co.*, 90 NLRB 289, 291-294; *N. L. R. B. v. Seven-Up Bottling Co. of Miami, Inc.*, 344 U. S. 344 ff. In order to assure expeditious compliance with these recommendations in regard to back pay and reinstatement, I shall recommend, finally, that the Re-

spondent, upon request, make available, to the Board, and its agents, all pertinent records.

Since it would appear, however, that the Respondent, in the commission of the unfair labor practices found, has not been motivated by an all-pervasive antipathy to the United Mine Workers of America, District 50, as a labor organization, or to its employee supporters—except as the conduct herein found subject to proscription may have been dictated by the views of its responsible officials with respect to the scope of their managerial prerogatives—I do not infer the existence of a possibility that the Respondent, when apprised of the national labor policy, will nevertheless continue to engage in these unfair labor practices or others statutorily interdicted. I shall, therefore, refrain from any recommendation that the Respondent be required to cease and desist from such other unfair labor practices, or that it be required to post a notice to that effect.

Conclusions of Law

In the light of the foregoing findings of fact, and upon the entire record in the case, I have reached the following conclusions of law:

1. The United Mine Workers of America, District 50, unaffiliated, is a labor organization within the meaning of Section 2 (5) of the Act, as amended, which admits employees of the Respondent to membership.

2. By its demand for the surrender of certain union membership applications or authorization

cards executed on behalf of the United Mine Workers of America, District 50, unaffiliated, its insistence that a posted policy with respect to the prohibition of union organizational activity on company time would be applied to establish rest periods, and the attempts of its supervisory personnel to require the removal of United Mine Worker buttons worn during working hours, the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights statutorily guaranteed, thus engaging and continuing to engage in unfair labor practices within the meaning of Section 8 (a) (1) of the Act, as amended.

3. By its constructive discharge of Elizabeth Ann Hamilton on February 10, 1954, and her subsequent formal separation, to discourage membership in a labor organization, the Respondent engaged and has continued to engage in unfair labor practices within the meaning of Section 8 (a) (1) and (3) of the Act, as amended.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act, as amended.

5. The Respondent has not, by its discharge of Loraine L. Evans on June 4, 1954, and its subsequent failure or refusal to re-employ her, discriminated against her because of her participation in concerted activity with other employees for the purposes of collective bargaining or other mutual

aid and protection, or to discourage membership in a labor organization. The Respondent thus has not, by its course of conduct in this respect, engaged in any unfair labor practices within the meaning of Section 8 (a) (1) and (3) of the Act, as amended.

Recommendations

Upon these findings of fact and conclusions of law, and upon the entire record in the case, I recommend that the Respondent, Essex Wire Corporation, d/b/a Essex Wire Corporation of California, at San Diego, and its officers, agents, successors, and assigns, should:

1. Cease and Desist From:

(a) Discrimination with respect to the hire and employment tenure of its employees or their terms and conditions of employment, by discharge or otherwise, to discourage membership in any labor organization of its employees;

(b) Imposition of any restraint upon employee activities, of the type found herein, calculated to interfere with, restrain, or coerce its employees in their exercise of the right to self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own free choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities, except to the extent that such rights may be affected by an agreement requiring

membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the National Labor Relations Act, as amended.

2. Take the following affirmative action, which I find will effectuate the policies of the Act:

(a) Offer Elizabeth Ann Hamilton immediate and full reinstatement to her former or a substantially equivalent position, without prejudice to her seniority or other rights or privileges previously enjoyed, in the manner set forth in the "Remedy" section of this report;

(b) Make whole Elizabeth Ann Hamilton for any loss of pay or other incidents of the employment relationship which she may have suffered because of the discrimination herein found, by the payment to her of a sum of money equivalent to that which she normally would have earned as wages between the date on which discrimination was practiced against her and the date on which the Respondent offers reinstatement to her, in the manner set forth in the "Remedy" section of this report, less her net earnings, if any, during the period in question;

(c) Upon request, make available to the National Labor Relations Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary for a determination of the amount of back pay due and the kind of reinstatement appropriate under the terms of this recommendation;

(d) Post at its plant in San Diego, California, copies of the notice attached to this report as an appendix. Copies of the notice, to be furnished by the Regional Director for the Twenty-first Region as the agent of the Board, should be posted by the Respondent immediately upon their receipt after being duly signed by a representative of the firm. When posted, they should remain posted for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable care should be taken by the Respondent to insure that these notices are not altered, defaced, or covered by any other material;

(e) File with the Regional Director of the Twenty-first Region, as the agent of the Board, within twenty (20) days of the date of receipt of this Intermediate Report and Recommended Order, a statement in writing as to the steps which the Respondent has taken to comply with the recommendations it contains.

Recommended Order

If within twenty (20) days of the date of service of this Intermediate Report and Recommended Order, the Respondent satisfies the Regional Director, as the agent of the Board, that it has complied or will comply with the foregoing recommendations, it is recommended that the National Labor Relations Board issue an order or take other appropriate action to close the case on compliance.

If the Respondent has not satisfied the Regional Director within twenty (20) days of the receipt of the Intermediate Report and Recommended Order that it has complied or will comply with the foregoing recommendations, it is recommended that the National Labor Relations Board issue an order requiring the Respondent to take such action.

Dated this 15th day of February, 1955.

/s/ MAURICE M. MILLER,
Trial Examiner.

Appendix

Notice to All Employees

Pursuant to

The Recommendations of a Trial Examiner

of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

We Will Not discourage membership in any labor organization on the part of any of our employees by discharging or refusing to reinstate any of our employees, or by discriminating in any other manner in regard to their hire or tenure of employment, or any term or condition of their employment.

We Will Not impose restrictions upon the right of our employees to engage in union or organizational activity during established rest periods or other non-working time, or their right to display union insignia personally while at work; nor will we, in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to bargain collectively through representatives of their free choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities, except to the extent that these rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the National Labor Relations Act, as amended.

We Will offer Elizabeth Ann Hamilton immediate and full reinstatement to her former or a substantially equivalent position without prejudice to her seniority or other rights and privileges previously enjoyed, and we will make her whole for any loss of pay or other incidents of the employment relationship which she may have suffered as a result of the discrimination practiced against her.

All of our employees are free to become or remain members of any labor organization, except to the extent that this right may be affected by an

agreement in conformity with Section 8 (a) (3) of the Act, as amended. We will not discriminate against any employee in regard to hire or tenure of employment, or any term or condition of employment, because of membership in or activity on behalf of any such labor organization.

ESSEX WIRE CORPORATION
OF CALIFORNIA,
(Employer).

Dated:

By,
(Representative.) (Title.)

This notice must remain posted for 60 days subsequent to its date, and must not be altered, defaced, or covered by any other material.

[Title of Cause.]

EXCEPTIONS TO THE INTERMEDIATE
REPORT OF TRIAL EXAMINER

References to page numbers and lines hereafter contained shall, when referring to the Trial Examiner's "Intermediate Report," be designated as (I. R. page, line), and when referring to the "Official Report" of the proceedings before the Trial Examiner, be designated as (O. R. page, line).

(1) Respondent, Essex Wire Corporation, a Michigan corporation, doing business as Essex Wire

Corporation of California, herein referred to as "Respondent," takes exception to the Trial Examiner's finding that the United Mine Workers of America, District 50, unaffiliated, was a labor organization within the meaning of the Act. (I. R. page 3, line 8.)

(2) Respondent takes exception to the Trial Examiner's finding and conclusion as announced that Respondent was guilty of unfair labor practices, as described. (I. R. page 23, lines 42-56.) (I. R. page 26, lines 5-19.)

(3) Respondent takes exception to the Trial Examiner's finding that Helen Greenwood arranged the so-called "double shift" as described by the Trial Examiner (I. R. page 28, line 53 through page 30, line 7).

(4) Respondent takes exception to the Trial Examiner's finding that Respondent would be chargeable with the conduct, purpose, or intent of Helen Greenwood, or that she was an agent of Respondent. (I. R. page 30, line 10.) (I. R. page 31, line 45.)

(5) Respondent takes exception to the Trial Examiner's finding that Ann Hamilton was justified in departing from her job, under the circumstances, without any or further notice to Respondent. (I. R. page 31, line 50 through page 32, line 13.)

(6) Respondent takes exception to the Trial Examiner's finding that, under the circumstances of this case, Mrs. Hamilton was justified in departing from the plant in violation of what the Trial Ex-

aminer has designated as "The Plant Rule." (I. R. page 32, line 15 through page 34.)

(7) Respondent takes exception to the Trial Examiner's finding that Respondent discriminatorily discharged Elizabeth Ann Hamilton, or that any responsible official, employee, or agent of Respondent had anything whatsoever to do with Mrs. Hamilton's departure from Respondent's plant on February 10, 1954, and to the so-called remedy of the Trial Examiner. (I. R. page 36, line 15 through page 37, line 5.)

(8) Respondent also takes exception to the Trial Examiner's conclusions of law 1 through 4, inclusive, individually and in their entirety. (I. R. page 37, lines 9-36.)

(9) Respondent takes exception to the Trial Examiner's recommendations, individually and in their entirety (I. R. page 37, line 49 through page 38, line 50), or to his recommended order. (I. R. page 38, line 50 through page 39, line 5.)

(10) Respondent excepts to the admission over Respondent's objection of any kind all evidence of Helen Greenwood's private intent, conduct of purpose uncommunicated to Respondent, and to any and all findings based thereon. (I. R. page 29, lines 1-40.) (O. R. pages 188, 191.)

(11) Respondent, A. M. I., is convinced that an oral presentation of its position will have substantial effect upon the Board's decision, and, therefore, hereby requests permission to appear orally before the Board to argue its case.

Respondent's Brief in support of the foregoing Exceptions is attached hereto.

Dated: March 21, 1955.

HOLT, MACOMBER &
GRAHAM, and
FRANKLIN B. ORFIELD,
By /s/ WILLIAM H. MACOMBER,
Counsel for Respondent.

United States of America
Before the National Labor Relations Board
Case No. 21-CA-1921

ESSEX WIRE CORPORATION, a Michigan Corporation, d/b/a ESSEX WIRE CORPORATION OF CALIFORNIA,

and

ANN HAMILTON, an Individual.

Case No. 21-CA-2035

ESSEX WIRE CORPORATION, a Michigan Corporation, d/b/a ESSEX WIRE CORPORATION OF CALIFORNIA,

and

LORAIN L. EVANS, an Individual.

DECISION AND ORDER

On February 15, 1955, Trial Examiner Maurice M. Miller issued his Intermediate Report in the above-entitled consolidated proceeding, finding that

the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices alleged in the complaint and recommended that such allegations be dismissed. Thereafter, the Respondent and the General Counsel filed exceptions to the Intermediate Report and briefs in support thereof.¹

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, the briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner to the extent that they are consistent herewith.

1. The Trial Examiner found, and we agree, that the Respondent violated Section 8 (a) (1) of the Act by demanding that an employee surrender the executed union membership cards he had in his possession, by prohibiting rival union activity during employee rest periods, and by requiring the removal of buttons denoting adherence to the rival

¹The Respondent also requested oral argument before the Board. This request is denied because, in our opinion, the record, including the exceptions and briefs, adequately presents the issues and the positions of the parties.

union while permitting employees to wear the membership buttons of the incumbent union.²

2. The Trial Examiner found, and we agree, that the Respondent discharged Loraine Evans for cause and not because of her union activity. We shall, therefore, adopt his recommendation to dismiss the allegation of the complaint that the Respondent violated Section 8 (a) (3) and (1) of the Act by its discharge of Evans.

3. The Trial Examiner found that Ann Hamilton, a leader in the rival union organizing activity, was transferred to more difficult work under circumstances which constituted a constructive discharge, in violation of Section 8 (a) (3) and (1) of the Act. The Respondent has excepted, and maintains that Hamilton was reassigned non-discriminatorily in the normal course of operations, and that she was discharged because she left the plant without permission in violation of a plant rule with which she was familiar.

Hamilton had been employed for about a year prior to her discharge, and had been considered a competent employee. In the course of her employ-

²The Respondent took no exception to the Trial Examiner's findings that these incidents occurred, but only to the conclusions that they constitute violations of the Act. As to the validity of these legal conclusions see, for example, *Airfan Radio Corporation, Ltd.*, 111 NLRB No. 97; *Delta Finishing Company*, 111 NLRB No. 114; *Graber Manufacturing Company*, 111 NLRB No. 20; *School-Timer Frocks, Inc.*, 110 NLRB No. 239, enf'd F. 2d, July 14, 1955, 35 LRRM 1329 (C. A. 4).

ment, she had been assigned to different positions from time to time. Some of these transfers were in accordance with the Respondent's practice of assigning qualified employees to different positions as need arose, while others were requested by Hamilton in order to broaden her experience.

On the day in question, reassignments of employees became necessary because of the absence of a repair girl. Hamilton was assigned to the take-off position on the large conveyor. She had never performed this particular operation, but had done take-off work on the small conveyor. These operations were apparently similar, the only differences indicated in the record being that the devices which had to be handled on the large conveyor were heavier and more complicated than those on the small conveyor. The operation was not unreasonably difficult, however, as it was regularly performed by women, some of whom had held this assignment without objection for a period of years.

As the Trial Examiner points out in his Intermediate Report, Hamilton requested gloves, which were generally worn on this operation. They were not immediately available, but were furnished to Hamilton in less than an hour. In the meantime, Hamilton claimed, her hands became badly scratched to the point where they were bleeding. Although she spoke to the plant nurse just before she walked out, she merely asked where the personnel clerk was, and made no request that the nurse treat her hands.

Hamilton had voiced no protest when she was assigned to the take-off position, made no request for assistance when she encountered difficulty with the work, and voiced no complaint when it seemed to her that fellow employees were jeering at her discomfiture. In addition to the leadwoman for the large conveyor, whose responsibilities include assisting the operators, there is a relief girl qualified and available to substitute for an operator who has to leave the production line for any reason. Yet Hamilton appealed for help to neither of these women. In fact, Hamilton at no time reported to any representative of management that her reassignment had created problems for her.

When Hamilton left the plant, she had been performing the take-off work for only about an hour. She left without a pass authorizing her departure, although she might have obtained one if she had consulted the nurse, as Foreman Kresin suggested she do when Hamilton asked him for a pass. She left during a rest period without making any attempt, during that period, to obtain a different assignment or to seek some other solution of her problems.

We are not convinced, on the basis of the entire record, that the temporary reassignment of Hamilton caused her such "hardship and suffering" or constituted a "substantially prejudicial alteration of the conditions of employment"³ to an extent that

³Cleveland Veneer Company, 89 NLRB 617, 622-623.

justified Hamilton's departure from the plant during working hours without permission.⁴ Under these circumstances, we find, as the Respondent contends, that Hamilton was discharged because she abandoned her job without authorization, and not because of her union activity. Accordingly, we shall dismiss the allegation of the complaint that Respondent discriminated against Hamilton in violation of Section 8 (a) (3) and (1) of the Act.⁵

Order

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corporation of California, San Diego, California, its officers, agents, successors, and assigns, shall:

1. Cease and Desist From:

Demanding the surrender of executed union membership applications, prohibiting union activity in the plant during authorized employee rest periods,

⁴In view of our findings as to the nature of Hamilton's reassignment, we consider it unnecessary to pass upon the other defenses raised by the Respondent regarding the termination of Hamilton's employment.

⁵Member Murdock would find that Hamilton was constructively discharged, in violation of Section 8 (a) (3) and (1) of the Act, for the reasons set forth by the Trial Examiner in the Intermediate Report.

requiring the removal of union buttons worn by employees belonging to one organization while permitting the wearing of buttons designating another organization, or in any like or related manner interfering with, restraining, or coercing employees in the exercise of the right to self-organization, to join or assist any labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act

2. Take the following-affirmative action which the Board finds will effectuate the policies of the Act:

(a) Post at its plant in San Diego, California, copies of the notice attached hereto as an appendix.⁶ Copies of said notice, to be furnished by the Regional Director for the Twenty-first region, shall, after being duly signed by the Respondent's authorized representative, be posted by the Respondent, immediately upon receipt thereof, and maintained for a period of at least sixty (60) consecutive days

⁶In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director for the Twenty-first Region, in writing, within ten (10) days from the date of this Order, what steps the Respondent has taken to comply herewith.

It Is Further Ordered that the complaint be, and it hereby is, dismissed insofar as it alleges that the Respondent discriminatorily discharged Ann Hamilton or Loraine L. Evans in violation of Section 8 (a) (3) of the Act, or violated Section 8 (a) (1) of the Act by conduct other than that found herein to be violative thereof.

Dated: Washington, D. C., July 28, 1955.

[Seal]

NATIONAL LABOR RELATIONS BOARD,

GUY FARMER,

Chairman;

ABE MURDOCK,

Member;

IVAR H. PETERSON,

Member;

BOYD LEEDOM,

Member.

Appendix

Notice to All Employees
Pursuant to
A Decision and Order

of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We Will Not demand the surrender of executed union membership applications, prohibit union activity in the plant during authorized employee rest periods, require the removal of union buttons worn by employees belonging to one organization while permitting the wearing of buttons designating another organization, or in any like or related manner interfere with, restrain, or coerce employees in the exercise of the right to self-organization, to join or assist any labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

ESSEX WIRE CORPORATION
OF CALIFORNIA,
(Employer.)

Dated:

By,

(Representative.) (Title.)

This notice must remain posted for 60 days subsequent to its date, and must not be altered, defaced, or covered by any other material.

Before the National Labor Relations Board
Twenty-First Region

Case No. 21-CA-1921

In the Matter of:

ESSEX WIRE CORPORATION, A MICHIGAN
CORPORATION, d/b/a ESSEX WIRE COR-
PORATION OF CALIFORNIA,

and

ANN HAMILTON, an Individual.

Case No. 21-CA-2035

In the Matter of:

ESSEX WIRE CORPORATION, A MICHIGAN
CORPORATION, d/b/a ESSEX WIRE COR-
PORATION,

and

LORAIN L. EVANS, an Individual.

PROCEEDINGS

Monday, August 2, 1954

Pursuant to notice, the above-entitled matter came
on for hearing at 10:00 o'clock, a.m.

Before: Maurice M. Miller, Trial Examiner.

Appearances:

BEN GRODSKY,

Appearing on Behalf of the General Counsel of the National Labor Relations Board.

HOLT, MACOMBER & GRAHAM, By
WILLIAM MACOMBER and
FRANK ORFIELD,

Appearing on Behalf of the Essex Wire Corporation.

* * *

Mr. Grodsky: Ready to proceed.

I wish to have the reporter mark for identification and then I will offer in evidence as General Counsel's Exhibit 1, the formal papers in this proceeding being more particularly the following:

1-A, the Charge against the employer filed February 12, 1954;

1-B, Affidavit of Service of Charge together with return receipt showing receipt thereof by the respondent;

1-C, Complaint issued by the Acting Regional Director on June 17, 1954;

1-D, Notice of Hearing issued on the same date;

1-E, Affidavit of Service of Notice of Hearing, Complaint, copy of Charge, together with return receipt showing receipt thereof by respondent;

1-F, Affidavit of Service of the initial C Letter,

copy [9*] of the charge in Case No. 21-CA-2035, together with return receipt showing receipt thereof by respondent;

1-G, Charge filed in Case No. 21-CA-2035 on July 7, 1954;

1-H, the Order Consolidating Cases and Notice of Hearing and the attached First Amended and Consolidated Complaint both of which documents were issued on the same date being July 21, 1954;

1-I, Affidavit of Service of 1-H, and copies of the Charges previously described together with return receipts showing receipt thereof by the respondent;

1-J, Answer filed to the original Charge; and

1-K, Answer to the First Amended and Consolidated Complaint.

1-J was the Answer to the original Complaint and not the Charge. 1-K is the Answer to the First Amended and Consolidated Complaint which letter was handed to me this morning and it is timely, by the way.

I will now offer these documents in evidence after showing them for inspection to respondent's counsel.

Mr. Macomber: I have no objection. I assume they are what you say they are.

Trial Examiner: Very well. There being no objection, General Counsel's Exhibits 1-A through 1-K will be received in evidence.

*Page numbering appearing at top of page of original Reporter's Transcript of Record.

(Thereupon, the documents above referred to were marked General Counsel's Exhibits No. 1-A through 1-K, inclusive, and were received in evidence.) [10]

* * *

Mr. Macomber: In addition to such defenses as are urged in the Answer filed to the Amended Complaint wherein it is, of course, earnestly alleged by the defendant that there was no discrimination in either of these cases and that both of these employees were, one was discharged for cause and the other voluntarily quit, we wish to raise the further point insofar as it may be appropriate, we take the position that a company cannot be guilty of discriminating against an individual who is a member or agent acting for and on behalf of an unauthorized union.

Therefore, if it should appear that the activities of either of these individuals were in connection with, say, the United Mine Workers, an organization which, I understand, has not qualified, or been authorized by reason of the failure to file their non-Communist affidavit and if by some evidence presently unknown to this respondent an inference should be raised of discrimination, we want to raise the further issue that there would not, we could not be guilty of discriminating against such activity. [11]

* * *

Mr. Grodsky: Mr. Examiner, before proceeding with the evidence in the case, I wish to amend

Paragraph 4. I already mentioned it to respondent's counsel in passing and he is enthusiastically in favor of the amendment except it doesn't go far enough to eliminate, in part, my contentions.

I amend it by striking out the phrase after the word "respondent," strike out the phrase, "beginning on a date uncertain but approximately November 20, 1953," and I wish to replace that by the phrase, "on February 10, 1954."

Mr. Macomber: Is that in Paragraph 3?

Mr. Grodsky: No, No. 4. Right after the word "respondent." Right at the beginning.

And then in the fourth line, it says, "to various other employments." Strike out the phrase, "various other employments," and substitute therefor the words, "to a job," so it will read, "to a job of a more difficult and disagreeable character."

And in the second to the last line in the same paragraph change the words "work assignments" to "work assignment," singular.

The purport of that amendment, Mr. Examiner, I just want to address myself briefly to it, if my further investigation [12] reveals that there is no provable earlier discrimination with reference to what assignments, work assignments, it is contended specific work assignments about which we shall have evidence was made for discriminatory reasons.

Trial Examiner: Very well. Now the question of the amendment of the Complaint has been raised, I may ask in the light of Mr. Macomber's earlier statements whether the General Counsel is agree-

able to the amendment of the case caption in line with the point made by Mr. Macomber?

Mr. Grodsky: Yes, as I understand it, where it says "Essex Wire Corporation" you request that "Essex Wire Corporation, a Michigan Corporation."

Trial Examiner: Yes, with reference to "Wire Corporation of California" deleted.

Mr. Grodsky: No, it's doing business as Essex Wire Corporation of California.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

It is my understanding as a result of the discussion off the record that the parties are agreed that an appropriate case caption in this case would read "Essex Wire Corporation, a Michigan Corporation, d/b/a Essex Wire Corporation of California," and upon that understanding having secured the consent of all counsel during our discussion off the record, [13] I will grant what I assume to be the motion to amend in that respect.

Well, before I rule on the other aspect on the motion to amend, I will ask if there is any statement respondent wishes to make.

Mr. Macomber: I have no statement other than that already made.

Trial Examiner: Very well, the motion to amend with respect to Paragraph 4 of the Consolidated Complaint is granted. [14]

Mr. Macomber: * * * We have not furnished in response to that subpoena, the No. 1 item, which calls for all invoices, bills of lading and so forth because we apprehended that the purpose of such evidence would be solely to bear upon the question of jurisdiction and proof of interstate activity of this corporation and it is our intention to and we do now concede the jurisdiction of the Board over the Essex Wire Corporation of Michigan. [15]

* * *

MITCHELL J. SIMON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. What is your name, sir?

A. Mitchell J. Simon.

Q. What is your position with Essex Wire Corporation?

A. Manager of production on the Pacific Coast.

Q. What is your business address?

A. 1305 Harbor Drive, San Diego, California.

Q. Mr. Simon, as manager of the San Diego Branch of Essex Wire Corporation, you have complete control of the activities of the plant in question here?

A. Insofar as the corporation policies and rules and regulations are concerned, yes.

(Testimony of Mitchell J. Simon.)

Q. And you are familiar with the production supervisory setup of the plant? A. I am that.

Q. And immediately under you who is next in charge? A. Mr. Fred Harms.

Q. H-a-r-m-s? A. Yes.

Q. His title is plant superintendent?

A. That is correct.

Q. What is the title of the next layer of supervisor that [16] you have in the plant?

A. General foreman.

Q. Do you have one or more than one general foremen? A. We have three.

Q. And are there foremen who are responsible to the general foreman?

A. The assistants or section foremen as they are called.

Q. How many of those assistants or section foremen do you have?

A. I'd say better than six. I can't give you the exact number.

Q. And are there any supervisors below the rank of assistant foreman?

A. None, not in a supervisory capacity. We have people which we refer to as lead people. These lead people by the context of the corporation policies spend more than 80 per cent of time engaged in actual production.

Q. Is Helen Greenwood a leadlady?

A. She is.

Q. Is Peggy Redden a leadlady?

(Testimony of Mitchell J. Simon.)

A. She is, Peggy Redden, R-e-d-d-e-n.

Q. Are they hourly paid? A. They are.

Q. How many girls does Greenwood have working with her?

A. Offhand, I would say somewhere in the neighborhood of 15. [17] Now that could go either way.

Q. What is the group over which she is lead-lady?

A. Rotary conveyor table, the large one.

Q. And Peggy Redden is the leadgirl over what group?

A. She takes care of the small rotary table. Also, miscellaneous on the taping machines.

Q. How many girls does she have working with her?

A. That fluctuates quite a bit. I would say 10 and over.

Q. Ten and over? A. Yes.

Q. What would be the maximum that she would have?

A. I can't quote that. It fluctuates, depends on production. I would say 10 to 20.

Q. All right. And who is the immediate supervisor of Peggy Redden?

A. Mr. Kresin, K-r-e-s-i-n.

Q. His title is what?

A. Assistant foreman or section foreman. We refer to him as both. Also, refer to him as section supervisor.

Q. Who is the immediate superior of Helen

(Testimony of Mitchell J. Simon.)

Greenwood? A. Same man.

Q. How many employees are there under the general supervision of Mr. Kresin?

A. Over 30. [18]

* * *

Q. That is what I want to know. How many has he had control, how many he had under his control at any given time?

A. Around 40 of a maximum. I am quoting that figure as approximate. [19]

* * *

Q. (By Mr. Grodsky): And along the same lines, Mr. Simon, the girls who are working on this conveyor table, are they stationary, or do they walk along with the conveyor in order to accomplish their own position?

A. We give them their own choice.

Q. In other words, some of them will be stationary and others will walk along with it?

A. As an example, I can give you one that will answer your question, I think. At one time I was approached by the leadlady, a group of girls that work on the conveyor wanted to know if they could sit down and do the operation because they [26] got kind of tired standing up doing the operation walking all day and I told them it had been my experience that you could sit down and do this job efficiently, I had seen that done and if they could sit down and do the job and not miss the jig, they would be welcome to do it. Some of them do it

(Testimony of Mitchell J. Simon.)

sitting down and others standing where the girls follow the jig all the way up or down toward the end of the conveyor. I proposed the question to the employees there why they just didn't wrap the certain position of it and let it go to the next girl instead of chasing up eight, ten, fifteen feet, and they say it breaks the monotony and they want to walk up.

Whatever pleases them is all right with us as long as the job runs efficiently. That is all we are concerned with. If we get the production quality, it makes no never mind.

Q. Now, who is, do you have a particular girl who customarily, whose steady job it is to remove the wire from the jigs and to place it on the overhead conveyor?

A. We did have at one time and the girls all thought it would be reasonable to change those people off because changing the people around gives each one a crack at it. We did when we originally started that table five years ago, started out having one girl do that job and she did it for, oh, I would say, these girls did it for about a year at a time and evolution, or whatever you might call it, a girl quits or another one comes on and so on and they change off. All [27] the girls change positions on the one side various times during the day now.

Q. Mr. Simon, referring now to before February of this year, did you have one steady girl who was regularly assigned to that job?

Mr. Macomber: You mean before February 10?

(Testimony of Mitchell J. Simon.)

Mr. Grodsky: That is correct.

The Witness: What do you mean by regular, how long?

Q. (By Mr. Grodsky): Well, now you say that you put that table into operation five years ago. Is it the sense of your testimony that a girl assigned there at that time and she worked approximately a year on that job?

A. It depends. I say about a year.

Q. Who was that girl?

A. Well, we have had three or four. The last girl, I believe, that worked there for a long period of time was, oh, she's a lady about 48, Mrs. Totito, Mrs. Freda Totito.

Q. About how long did she work there on that job?

A. I would say between six months and a year, offhand. I don't know.

Q. When was she taken off that job, do you recall?

A. No, I can't.

Q. Did you have anything to do with her being taken off that job?

A. Well, I don't know whether I had anything to do with it [28] directly. However, we have the mutual agreement, since the company reserves the right to transfer anybody within their classification at any time, we have a mutual agreement that in the event an employee and, usually a female, has any complaint about a particular job that she make a request in writing to the company stating her reasons why she can't do such a job.

(Testimony of Mitchell J. Simon.)

Then we will send her to the company doctor for examination. If the doctor makes a determination or recommends that she be taken off temporarily, we will do it. The reason that we go through that elaborate system is that our general assembly department runs as high as 150 women. One can't stand up and the other can't sit down and we have mutiple problems with what people can't do. So we have become, we have come to the point where we couldn't at everybody's desire change them when they like to be changed. It is just not conducive with good production.

Q. Getting back to the question of Freda Totito, do you know why she was taken off that job?

A. No, I believe she had some legitimate complaint.

Q. Do you recall whether it was leg trouble?

A. I don't know. I know she did have a medical problem. Let's put it that way.

Q. When she was taken off the job, who was put on that job?

A. I can't quote the names for you but I imagine we can go [29] back and find out.

Q. Do you know when Freda was taken off that job, approximately?

A. I can't quote that date, either.

Q. The girl who took her place, did she work on that job for any extended period of time?

A. That I don't know, either.

Q. Do you know who was—strike that.

(Testimony of Mitchell J. Simon.)

Was there in addition to the person who was assigned to that position another girl who was assigned to act as relief for the specific girl?

A. Well, as I stated before, we had two people relieving that table. I also stated that recently, and which will include the date you are speaking of, those girls in that front line had been changing off.

Q. Your testimony, Mr. Simon, is that before February 10, 1954, all of the girls who worked on that conveyor table had also at one time or another worked on that specific job?

A. No, sir. I never testified to that. I said the girls in that immediate section around the table, maybe three or four down.

Trial Examiner: Just a moment. Just to get this clear, when you say the three or four girls immediately adjacent to this station, the three or four girls at the station immediately adjacent to the point at which jigs are lifted [30] off and put on the conveyor——

The Witness: The harnesses.

Trial Examiner: The girls occupied the three or four stations had been participating in the shifting arrangement?

The Witness: As I mentioned, Mr. Miller, it was at the convenience, as the girls pointed out, "We would like to do so and we would like to do so."

And we just told them, "If you can do it in that manner and still get out our production in efficiency, that is fine."

(Testimony of Mitchell J. Simon.)

So they worked it out among themselves. It was not a question of a definite time that they were to go here and to go there and so on.

Trial Examiner: If I understand Mr. Grodsky's last series of questions correctly, then, he is attempting to elicit your best recollection as to whether that arrangement involving the girls at these three or four stations, was in effect in February of this year?

The Witness: I would think so. You see, the reason I can't answer him point blank is that I have two plants to cover and I have got a lot of administrative work and I'm not as close to the actual operation.

I usually get in it when there's some problems but I do make my rounds through the plant, make them three or four times a day.

Q. (By Mr. Grodsky): Do you know an employee who was known [32] as Jo? Her name probably was Josephine?

A. That is not much of a description. I have got to have more than that.

Q. I will suggest to you that an employee by that name took Freda's job when Freda was taken off the removing of harnesses and putting on the conveyor?

A. I'd have to see the face. I'm sorry.

Q. Some jobs in the plant are more tedious than others, aren't they? A. Yes, sir.

Q. Some jobs are more difficult in terms of requiring more effort than others?

(Testimony of Mitchell J. Simon.)

A. Well, sure, absolutely. We have probably 100 different operations.

Q. How would you characterize this particular job of lifting harnesses from the conveyor and putting them on the overhead conveyor, would you consider that a difficult job or a simple one?

A. No, I would say it's about medium. We have some easier and we have some worse.

Q. (By Trial Examiner): How high is the level of the conveyor tables on which the jigs move, the conventional table height or a little higher?

A. I'd say just slightly higher than a conventional table. That table about that height and then the jig sits on it and [32] I'd say go up about 10, 11 inches.

Q. How high from the floor is the overhead conveyor from which the completed harness has to be lifted?

A. If you bent the harness this way and held it in your hand you can take it shoulder high and take it off.

Q. What sort of overhead conveyor is this, a belt or chain?

A. A chain that has hooks hanging down and runs in a track.

Q. And the operation of lifting involves lifting the completed harness and placing it on the hook as the hook passes?

A. Yes, there are many hooks that pass one that is available and then they hang it on.

Q. It passes at approximately shoulder height?

(Testimony of Mitchell J. Simon.)

A. Well, the hooks are higher than shoulder height. However, you take the harness off and bend it like that and hang it up at shoulder height. You get hold the harness up here and bend it over.

Q. The point I was making, would it involve an arm movement in which the arm would not have to be raised, if I understand you correctly, higher than shoulder height?

A. Depends on how the individual handled it. I would say the proper way of doing it——

Mr. Macomber: May I intrude with one question?

Trial Examiner: Yes.

Mr. Macomber: What is the approximate weight of that [33] harness?

The Witness: Seven or eight pounds, I guess.

Q. (By Mr. Grodsky): You indicated that it's a rather simple job if someone knows how to do it, is that what the nature of your testimony was?

A. I didn't say it was simple. I said it was medium. We have some less difficult some more difficult.

Q. My present question went to the question is there particular skill or know-how involved?

A. Not particularly.

Q. In other words, it's your opinion that anyone without any previous knowledge of how to do the job could come up and do it without much expenditure of effort?

A. You say expenditure on the part of the

(Testimony of Mitchell J. Simon.)

person doing it or on the effort on the part of training?

Q. Effort on the part of the person who is doing it. I'm assuming that there is no training.

A. I would say merely lifting something off the pin in just loosening the wires and take it off the jig and hang it up. Whatever effort it takes to do the job, that is it. I'm leaving it to your not seeing the job. If you saw it you could determine for yourself.

Trial Examiner: Just a moment. I may say that one of the difficulties that we face in all of these problems where we are building a verbal record is that whereas if a view [34] of the premises is highly desirable for a person such as myself who has that duty to make the initial findings of fact, the record is going to be reviewed in Washington where all that will be available is the printed page so we have to make the verbal descriptions which appear on the printed page regardless of what my situation may be.

The Witness: I realize that but I see through a different pair of eyes than you do because I have seen this operation so many times and I say there is relatively nothing to learn.

Q. (By Mr. Grodsky): In your last answer, I noticed that you were illustrating by moving your hands and you referred to removing the harness from the various pins in a number of spots. I think you moved your hand about five or six places?

A. That is correct, yes.

(Testimony of Mitchell J. Simon.)

Q. From your observation of the operation in the plant does the girl who removes that harness work it from a large number of stations or does she just generally lift off the harness at one end and then lift it off at another end and then shake it loose?

A. It depends on the individual. Some of them have done it, shake them. Others go along and walk along the conveyor and pull them off. Others stand there and as the rotary comes by they pull it off as it comes past. It depends on the manual dexterity of the individual. Everybody has a different [35] way of doing things.

Q. When a girl lifts up the harness she has taken off the jig, does she have to move her body in any way in order to put it on to the overhead conveyor?

A. She turns around and, I would say, takes a maximum number of steps, about three and then returns.

Q. Do you know whether or not the girl who has that job customarily wears gloves?

A. Some do. I think most of the time they do.

Q. Do you know why they wear gloves?

A. I don't know. Maybe to protect their dainty hands. They are females and pretty proud of their hands.

Q. Does the company furnish the gloves?

A. Yes, sir, as a matter of courtesy.

Q. Now getting back to the question of the as-

(Testimony of Mitchell J. Simon.)

signment of girls for the jobs, who tells the girls what jobs they are to go to at the assembly line?

A. Sometimes the foreman tells them, sometimes the foreman tells the leadlady to go and get so and so and put them on such a job.

Q. In other words, it's your testimony that the foreman is the one who determines what position the girl is going to work on on the line?

A. Generally, yes, sir. The leadlady does, knows the individuals and, as a rule, most of the same people other than [36] this one particular station you are talking about are there all the time.

Q. Now on this one station, I'm talking about prior to December, February 10 of this year. Is it your testimony that on this station there was a difference in the way in which there was a job assignment than as to other stations? A. No.

Q. Well, in your last answer you said that generally the same people are there all the time except for this one station? A. That's right.

Q. What is there different about this one station?

A. Just that it is the last station and not the most desirable spot on the rotary conveyor.

Q. Does that have any difference to do with who makes the assignment? I was only talking to you, Mr. Simon, about who makes the assignment.

A. I repeat, the foreman generally makes the assignment and sometimes leaves it to the discretion of the leadwoman.

(Testimony of Mitchell J. Simon.)

Q. Then the leadwoman does have the responsibility at times to make the assignments?

A. To go back in the testimony, I said that the lead person is the person who works immediately under the assistant foreman and spends at least 80 per cent of their time in full production work which leaves 20 per cent of the time doing a [37] sort of supervisory work.

Q. There is a Mrs. Barnes in the corporation, in the organization?

A. That is so.

Q. What is her position?

Mr. Macomber: May I have the first name?

The Witness: Mrs. Esther Barnes. Typical of a small plant, her job, like the rest of us, covers multiple things. We are not large enough to have a personnel department as such, insurance department as such and so on and so forth so she is a combination, the personal files, employment, payroll, bond deductions, et cetera, insurance, all dealing with records of individual employees. And a sympathizer, I might add, for anyone who wishes to weep.

Q. (By Mr. Grodsky): Is there a Tom Walton in the organization?

A. Tom Walton, yes.

Q. Is that W-a-l-d-e-n?

A. Thomas E. W-a-l-t-o-n.

Q. What is his position or title?

A. He doesn't particularly have a title. He is the general all around man. I use him on special assignments, use him for cost work, use him for

(Testimony of Mitchell J. Simon.)

supervising of office and clerical personnel, anything I might happen to want him for.

Q. He is directly responsible to you, is that it? [38] A. That is correct.

Trial Examiner: Does he have any plant responsibilities or are his responsibilities limited to the operation of your office?

The Witness: No, he has no special assignment of plant responsibility.

Q. (By Mr. Grodsky): I will show you General Counsel's 2 for identification and ask you if this document was turned over to me in response to the subpoena as the no-solicitation rule which was posted in the plant? A. That is correct.

* * *

(Thereupon the document above referred to was marked General Counsel's Exhibit No. 2 and was received in evidence.)

GENERAL COUNSEL'S EXHIBIT No. 2

(Copy)

Bulletin
Notice

1-14-54.

To: All Employees:

It Has Come to Our Attention That Our Employees Are Engaged in Union Campaigning During Working Hours. Any Such Campaigning for

(Testimony of Mitchell J. Simon.)

Any Union During Working Hours Is Contrary to Company Rules and, Therefore, Those Involved Are Subject to Disciplinary Action.

We Request Those Involved Campaigning for Any Purposes on Company Time Refrain From: These Practices in Order That We May Not Become Involved in Some Undesirable Incidents.

/s/ M. J. SIMON,

M. J. SIMON.

MJS:er

Received in evidence August 2, 1954.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

Q. (By Mr. Grodsky): I now show you General Counsel's 3 for [39] identification and ask you if this is the agreement which was in effect between Essex Wire Corporation and IAM Local 1930, for the period of January 15, 1953, to May 15, 1954?

A. That is correct.

* * *

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 3 and was received in evidence.)

(Testimony of Mitchell J. Simon.)

GENERAL COUNSEL'S EXHIBIT No. 3

Agreement Between
Essex Wire Corp.
of San Diego, California
and
International Association of
Machinists

Automotive Electric Lodge No. 1930

Agreement

This Agreement made this 15th day of January, 1953, by and between the Essex Wire Corporation of California of San Diego, California, hereinafter called "the Company," and the International Association of Machinists, Silvergate District Lodge No. 50, for and in behalf of Automotive Electric Lodge No. 1930, hereinafter called "the Union," when accepted by the parties hereto, and signed by their respective agents thereunto duly authorized, shall supersede all previous Agreements by and between the parties hereto, and shall constitute the sole agreement between them.

Article II.

Recognition:

1. The Company recognizes the Union as certified the 22 day of July, 1948, by the N.L.R.B. as the exclusive Collective Bargaining Agency for all employees of the Company excepting Office and

(Testimony of Mitchell J. Simon.)

Clerical employees, Guards, Professional employees and all Supervisors as defined in the National Labor Relations Act.

* * *

Article XIV.

Rest Periods:

The Company agrees not to change its current practices in regard to rest periods without negotiation with the Union.

* * *

Duration and Effective Date:

This Agreement shall become effective on January 15th, 1953, at 12:01 a.m. and shall remain in full force and effect until May 15th, 1954, Midnight. On May 15th, 1954, and at the end of each yearly period thereafter, this Agreement shall be renewed automatically for periods of one (1) year unless either party gives written notice of its desire to terminate or amend same at least sixty (60) days prior to each yearly expiration period. In the event notice of desire to modify or amend is properly given by either party in accordance with the above Section, the parties shall meet within a period of ten (10) days subsequent to the commencement of the sixty (60) day period hereinabove referred to, if practical, and shall exchange simultaneously the desired amendments in writing at this meeting.

At this meeting the parties hereto shall set up a date and proposed schedule for further negotiations.

(Testimony of Mitchell J. Simon.)

During said negotiations this Agreement shall remain in full force and effect except that it may be terminated by either party upon five (5) days notice in writing, provided however, termination may not occur prior to the yearly expiration date.

During said five (5) day period negotiations shall continue at the request of either party. The parties may, by mutual agreement, extend termination date.
Company:

M. J. SIMON,

WALTER F. PROBST.

International Association of Machinists, Automotive
Electric Lodge No. 1930:

FREEMAN C. BROWN,
Business Representative;

HELEN SMALLWOOD,

MARY C. GALLEGOS,

ETHEL R. YOUNG,

M. IRENE COLLETT.

Received in evidence August 2, 1954.

Q. (By Mr. Grodsky): I show you General Counsel's Exhibit No. 4 for identification and ask you if this is the current agreement between the company and Local 1930 IAM?

A. That is correct.

(Testimony of Mitchell J. Simon.)

Mr. Grodsky: I will now offer General Counsel's Exhibit No. 4 in evidence.

Mr. Macomber: I'd like to, if I could at this point, it might be appropriate to recall one short paragraph of it to the attention of the Examiner.

Trial Examiner: Very well.

Mr. Macomber: Under Article 8 which deals with the seniority provisions, Paragraph 5 thereof, the following appears: "The employer shall have the right to temporarily [40] transfer any employee from one department to another. Any employee temporarily transferred shall retain his seniority in his old department."

Trial Examiner: Very well. With that matter noted for the record, is there any objection to the receipt in evidence of General Counsel's 4?

Mr. Macomber: No objection.

Trial Examiner: Very well, General Counsel's 4 will be received in evidence.

(Thereupon, the document above referred to was marked General Counsel's Exhibit No. 4 and was received in evidence.)

* * *

GENERAL COUNSEL'S EXHIBIT No. 4

Agreement

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(Testimony of Mitchell J. Simon.)

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Article XIV.

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(Testimony of Mitchell J. Simon.)

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Received in evidence August 20, 1954.

(Testimony of Mitchell J. Simon.)

Q. Now, during the, in the period—strike that. This notice about no solicitation which was posted in January of 1954, is that the first time that you posted a [41] notice of that sort?

A. The first time we knew of any factual dispute that existed was two weeks before that and causing a lot of disharmony so I requested guidance on it and that is the note I posted to try to avoid any incidents.

Q. When you say you requested guidance, that was from your Detroit office?

A. Legal department.

Q. In Detroit, is that right? A. Yes, sir.

Q. Did you observe any employees wearing union buttons in the plant?

A. You are speaking of which?

Mr. Macomber: When you, can you limit that as to time?

Mr. Grodsky: That is my next question. First I want to know if he noticed anything like it.

The Witness: The union representing the people, the union contract that was in effect have alternately worn them and not worn them, I mean——

Q. (By Mr. Grodsky): Like prior to the time when you posted the notice, had they worn those buttons? A. They, who?

Q. The IAM faction in the plant?

Mr. Macomber: I think he has already answered that some wore them and some didn't. Now, do

(Testimony of Mitchell J. Simon.)

you mean by "they" [42] all of them or with the qualification of his answer?

Mr. Grodsky: I will rephrase the question.

Q. (By Mr. Grodsky): You told us that you, that what impelled the posting of the notice was that you were aware of some factional disharmony among the employees, is that correct?

A. Yes, sir.

Q. Were any employees at that time wearing union buttons and by that time, I mean prior to the time when you posted that notice?

A. Do you mean IAM union buttons?

Q. Yes, IAM union buttons.

A. They wore them, some wore them, some didn't wear them.

Q. Were any employees wearing any other kind of union buttons before the time that you posted that notice?

A. Yes, sir.

Q. Those are buttons on behalf of what organization?

A. United Mine Workers.

Q. Did you notice when they started wearing those buttons?

A. About 8:30 in the morning about two days prior to the notice.

Q. At that time had you already written to Detroit for advice?

A. I called them on the telephone.

Q. You called them after you saw the buttons, is that it? [43]

A. I called them, yes. I had the questions asked

(Testimony of Mitchell J. Simon.)

me that I didn't feel qualified to answer so I called Detroit for guidance.

Q. What was the nature of the questions that were asked you?

Mr. Macomber: Do you mean from Detroit?

Mr. Grodsky: No, he said he called Detroit on the basis of questions he felt unqualified to answer. I'm trying to explore what the questions were.

The Witness: I had questions from the rank and file and from the supervisors. The rank and file had been going to them. They were all upset. The factual dispute was in progress as we came out in blossom.

Mr. Macomber: Came out to what?

The Witness: With the advent of these events, with the people all up in arms, the rank and file people all disturbed, they wanted to know what we were going to do about it. I called Detroit for guidance. After my telephone call, I sent out instructions to my chain of command.

Q. (By Mr. Grodsky): Were those written instructions? A. No, sir, oral.

Q. You say the rank and file were up in arms. Who among the rank and file employees spoke to you, if you recall?

A. About four, I believe, that morning.

Q. Well, will you name them, please? [44]

A. Betty Cave, Freda Totito, Helen McLewin, one other person who escapes me right now.

Q. Betty Cave had some position with the local, didn't she?

(Testimony of Mitchell J. Simon.)

A. She was committee woman for final assembly.

Trial Examiner: IAM committee woman?

The Witness: Yes.

Q. (By Mr. Grodsky): And does Helen McLewin, did she at that time hold any position?

A. I can't tell you that. I don't know offhand.

Q. Wasn't she a member of the grievance committee at that time?

A. I will have to go back in the record to find out. I'm not sure. I don't want to answer your questions when I'm not sure, if you don't mind.

Q. In fact, I approve of that.

A. I'd rather say something now—I would rather say I don't remember than to say something now that I'm not sure of and later have you say, "Well, you said so in your testimony."

Q. I completely agree with you, Mr. Simon.

Now, what was it that Betty Cave was concerned about, what did she talk to you about, if you can recall?

A. It wasn't Betty Cave, it was a group.

Q. A group came to you as a delegation?

A. Four people, I guess you call it a delegation if four is [45] a delegation.

Q. Who acted as spokesman for the delegation?

A. None of them, they all rattled on.

Q. What was the nature, what is the gist of the complaint?

A. The gist of the complaint was they had such harmonious relations for all these years and why must they work under these conditions of pressure

(Testimony of Mitchell J. Simon.)

and arguments and so on and so forth. They were upset, I imagine, about the factional dispute.

Q. Well, Mr. Simon, inasmuch as you are not going to testify what you are not certain about let's please let your imagination out of it, too.

A. If you so desire, I will.

Q. Fine. Now, did you ask them specifically what pressure or arguments they were referring to or did they tell you specifically of any situations?

A. Generally, they were talking about the campaigning, people were wearing buttons, how could they wear buttons when there was a union in there that represented them and so on.

My answer to them was that you will have to take things in your own hands, your instruction should come from your business agents at your union hall.

My legal department has told me that there is nothing that we can do about getting into any factual dispute [46] because we are regulated by law. As far as we are concerned, there will be no campaigning done on company time by either party for any union activities and should you people decide you are going to do something about it, we will have to treat you in the same manner. I also told a group——

Q. Just a minute now. I am trying to restrict it to this one conversation before the time you spoke to Detroit. Now when was that? A. After.

Q. This is after you spoke to Detroit?

A. That's right.

Q. Before you spoke to Detroit, they had com-

(Testimony of Mitchell J. Simon.)

plained to you about campaigning and about the wearing of union buttons?

A. I got the word through the plant that morning that buttons were out and people were upset and before I proceeded, I called Detroit.

Q. I see. Then you called Detroit before these four people came up and talked to you?

A. Yes, sir.

Q. I see. I misunderstood you.

Then, what prompted you to call Detroit?

A. Legal guidance. I have been in this unionism and management thing for a number of years and I just wanted to be sure that since I don't have any means of knowing the changes in the laws and can't quote all the laws, we have a [47] department that does that thing and I don't take the responsibility upon myself for something with which I am not familiar with. I'm a production man.

Q. As I understand it, you called Detroit because you saw these buttons blossoming out?

A. I heard through the foremen and superintendents and the supervisors that people were all upset, buttons were out that morning and people were up in arms about it and before I made any moves I called Detroit.

Q. When you called Detroit, just what instructions did you receive from Detroit?

A. That we could not participate in any factual dispute, that it was none of our business, that in order to keep our production rolling that all we were able to do was to tell the people that we would

(Testimony of Mitchell J. Simon.)

not allow any campaigning during working hours and I questioned specifically about the buttons and campaigning material and they told me as long as they aren't being handed from one to another on the job during working hours that there was nothing that we could do about it.

Q. And that was, as you testified, about two days before the date that you posted the notice?

A. Yes, sir.

Q. And then, I suppose, if you will permit me to indulge in my imagination, Detroit told you they were sending you a [48] notice which you would post on the bulletin board? A. No.

Q. No?

A. They told me what I could say on the phone.

Q. I see.

A. And I wrote up the notice and posted it.

Q. Why was there a delay of two days if I may ask? A. No reason.

Q. Didn't you consider it rather important to get this notice posted as soon as possible?

A. Not particularly. We had been in these fights before.

Q. How long after your telephone call to Detroit was it that this committee approached you?

A. I think it was probably the next day.

Q. And in the meantime your foreman had told you that there was this factual arousing?

A. Yes.

Q. But you didn't consider it sufficiently important to get that notice out immediately?

(Testimony of Mitchell J. Simon.)

A. They had their oral instructions and I felt they were competent enough to pass that on.

Q. Now, did you direct any employees to remove their union buttons at any time?

A. No, sir. There is one fellow there after I had made my call, I passed through the department, usual routine, by the [49] name of Pipmeier. He was adjusting his button on an apron or shirt, I can't recall which, and had just walked away from another employee by the name of Vivian Moore. I walked up to Mr. Pipmeier and I said, "Look, Jerry, I want to avoid any trouble, any incidents, and we haven't had any trouble and you have never given me any trouble and I don't want you to start now. I can't do anything about you wearing that button but I can do something about you passing that button from one person to the other and I don't know whether you just took it from Vivian or what happened, but if I see you passing buttons or campaigning material from one person to another during company time, I'm going to fire you.

I also made that statement to James Juhl in the presence of Mr. Casey and Mr. Lee Baker on two occasions that I didn't care what they did outside or what union they wanted or who they wanted to represent them but they weren't going to do it on company time.

Q. Did you have any occasion to tell any employees favoring the IAM the same thing?

A. I did that to the same four people that I spoke to you about that approached me.

(Testimony of Mitchell J. Simon.)

Q. Did you talk to them about wearing IAM buttons?

A. I told them exactly the same thing.

Q. Now, did you talk to Mr. Pipmeier before or after the notice had been posted? [50]

A. Before—it was after the phone call.

Q. And to Mr. Juhl, you testified you spoke on two separate occasions?

A. That was after the notice had been posted. I also spoke to Miss Evans after the notice had been posted when she questioned me about the wearing of buttons.

Mr. Macomber: Just as a point of information, I am wondering if I may be advised as to whom the two young ladies are flanking you, Mr. Grodsky?

Mr. Grodsky: I should indicate that this is Mrs. Hamilton and Mrs. Evans, the two charging parties in this proceeding.

I will state, also, for the record that this is the first time I have had the enviable position of being flanked by two young ladies in one of our Board cases.

I have no further questions of Mr. Simon.

Mr. Macomber: I have no questions at this time.

Trial Examiner: You may be excused.

(Witness excused.)

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: The hearing will be in order.

Mr. Grodsky: I call Miss Ford, please. [51]

EUNICE FORD

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. State your full name, please.

A. Eunice Ford.

Q. What is your address, Mrs. Ford?

A. 440 Maryland Street, San Diego.

Q. What is your position in the company?

A. I run a taping machine.

Q. Will you please speak up, Mrs. Ford?

A. I run a taping machine.

Q. Who is your leadlady?

A. Peggy Redden.

Q. In February of this year, did you hold any position with the International Association of Machinists Local? A. I was financial secretary.

Q. Of Local 1930? A. That's right.

Q. In the plant, is that correct?

A. That's right.

Q. Did you have any discussion with any supervisor about Ann Hamilton on the last day that she worked in the plant?

Mr. Macomber: May we have that person identified before she commences any conversation? [52]

(Testimony of Eunice Ford.)

Mr. Grodsky: Yes. It was a preliminary question.

Q. (By Mr. Grodsky): On the last day that she worked in the plant? A. I talked to Peggy.

Q. Peggy Redden? A. Peggy Redden.

Q. And about what time of the day did you talk to Peggy?

A. Between 8:00 and 9:00 in the morning.

Trial Examiner: Are we speaking of February 10?

Mr. Grodsky: Yes.

Q. (By Mr. Grodsky): And will you tell us what you said to Peggy and what Peggy said to you on that occasion?

Mr. Macomber: I'm going to object at this time on the grounds that it is hearsay, no proper foundation laid as to any conversation or statement on behalf of Peggy Redden that would be binding upon the corporation.

Trial Examiner: Does the General Counsel expect to contend that Peggy Redden is a supervisor within the meaning of the Act?

Mr. Grodsky: Mr. Examiner, I wish to contend that, and in any event, this conversation is in part preliminary and I think it will be tied up satisfactorily. Now, I will just make it on that basis.

Trial Examiner: On that representation, I will permit it subject to motion to strike if counsel sees fit to make [53] such motion after the proof has been offered.

Mr. Macomber: Very well.

(Testimony of Eunice Ford.)

Q. (By Mr. Grodsky): What did you say to Peggy and what did she say to you?

Mr. Macomber: I wonder if we may have a foundation of names of anyone else present?

Q. (By Mr. Grodsky): Was anyone else present at this time who was in a position to hear the conversation? A. No.

Q. Where did the conversation take place?

A. At my taping machine.

Q. What did you say to Peggy and what did she say to you?

A. I said to Peggy, "Let's put Ann on the conveyor."

Mr. Macomber: Let's what?

The Witness: Put Ann on the conveyor.

Q. (By Grodsky): Did you give any reason why Ann should be put on the conveyor?

A. Well——

Q. I'm not asking if you had any reason, I'm asking did you tell Peggy anything.

A. All I said was, "Look at Ann sitting on her dead butt. Let's put her on the conveyor."

Q. What did Peggy say, if anything?

A. "I will go see about it."

Q. Did you observe whether she went to speak to anybody? [54]

A. She went straight to Betty Cave.

Q. Did you overhear any conversation?

A. No.

Q. Did Betty talk to you at any time later about Ann Hamilton? A. Yes, she did.

(Testimony of Eunice Ford.)

Q. When did she speak to you next?

A. I can't tell you any time on it.

Q. About how long after this first conversation?

A. I don't know.

Q. Was it—— A. It was that morning.

Q. Well, when she spoke to you, was Ann still working on the taping machine? A. Yes.

Q. It was before Ann was moved over to the conveyor? A. Yes.

Q. What did Peggy say to you at this time?

A. When she came back to my machine I asked her, well, I just asked whether she had done it or not and she said—I'm quoting now what Peggy told me—she said, "Simon don't give a damn what you do."

Q. Was anything else said on this occasion?

A. No.

Q. Do you know an employee by the name of Freda Totito? [55] A. Yes, I do.

Q. Do you know what position—strike that.

Did you observe that she had a job of removing harnesses from the rotary conveyor or putting them on the overhead belt? A. Yes.

Q. Do you know how long she had that job before she was transferred from that job to another job? A. Yes, about three or four years.

Mr. Macomber: Three or four what?

The Witness: Years.

Q. (By Mr. Grodsky): How do you know that?

A. Freda told me.

Mr. Macomber: I'm going to move to strike an-

(Testimony of Eunice Ford.)

swers based on hearsay if that is the basis of her answer, Mr. Examiner. He said, "How do you know that?" And she said, "Freda told me."

The Witness: I have seen her.

Trial Examiner: Just a moment. If the truth of the matter that is asserted, namely, Totito's tenure, is the important fact here, I think the objection is well taken.

Mr. Grodsky: Mr. Examiner, Freda is still an employee in the plant, I believe. She could be made available to testify. Respondent has the records and is in a position to know the facts.

Mr. Simon testified only from the best of his recollection [56] which he himself admitted was not too substantial. I believe that this lays a foundation for a finding that her employment in that position was far longer than the six months that Mr. Simon estimated.

I will go one step further and then I will ask the witness one more question as to the actual fact of the exact period of time. I will admit that all this does, it creates a doubt. It doesn't create a basis for a firm finding but I believe it is sufficient to cast a doubt on the accuracy of Mr. Simon's observation up to this point.

Trial Examiner: I don't know whether the point is material enough.

Mr. Grodsky: It is material enough.

Trial Examiner: It is material enough to spend all that time on it?

Mr. Grodsky: Oh, yes.

(Testimony of Eunice Ford.)

Trial Examiner: I will reserve ruling.

Q. (By Mr. Grodsky): How long have you been employed at the plant?

A. Two and a half years.

Q. And during the entire time that you were employed there until Freda was taken off that job, do you know of your own knowledge that she had that job regularly? A. Yes, she did.

Q. And—— [57]

Trial Examiner: Just a moment. There being no objection and the evidence being otherwise admissible, I will permit the witness' last answer to stand but I will sustain the objection to the question as originally presented.

Mr. Grodsky: All right.

Q. (By Mr. Grodsky): Now, after Freda was taken off that position, do you know whether an employee was assigned to that job?

A. I don't know if she was assigned to that job. I know that she was working on the job.

Q. Was there one employee who worked on that job regularly after that?

A. As far as I know, yes.

Q. Who was that employee?

A. Jo Hutchins.

Q. You are familiar with Ann Hamilton, I mean you know what she looks like?

Mr. Macomber: What is the question, please?

Mr. Grodsky: Just that she knows who Ann Hamilton is, what she looks like.

The Witness: Yes.

(Testimony of Eunice Ford.)

Q. (By Mr. Grodsky): Jo Hutchins is a bigger girl than Ann Hamilton? A. No. [58]

Q. Is she heavier?

A. I'd say about the same.

Q. About the same? A. About the same.

Q. Is Freda a bigger girl? A. Yes.

Mr. Grodsky: I have no further questions from this witness.

Cross-Examination

By Mr. Macomber:

Q. How much older is Freda Totito, if you know, than Mrs. Hamilton?

A. About 20 years.

Q. Would you judge Freda's age to be approximately 50 years of age? A. Pretty close to it.

Q. Would you say that Mrs. Hamilton is somewhere between 25 and 30 years of age?

A. Pretty close, yes.

Mr. Grodsky: Mr. Examiner, this is a gross distortion. I mean I am flanked by two beautiful women, at least, let's get it straight, I will stipulate that Ann Hamilton is under 25.

Mr. Macomber: I will stipulate 21 if you want me to.

Q. (By Mr. Macomber): How long have you known Mrs. Hamilton? A. I can't say. [59]

Q. Would you say you have known her as long as two years?

A. I don't think so. I don't think she has been employed two years.

(Testimony of Eunice Ford.)

Q. Have you worked at any time side by side with her there in the plant?

A. I don't recall unless I worked with her on the conveyor. Well, now——

Q. To refresh your recollection, you worked on the taping machine, did you not? A. Yes.

Q. And for a period of time prior to this alleged conversation with Peggy Redden, didn't Mrs. Hamilton also work on the taping machine?

A. Yes, in front of me but you asked if I worked side by side.

Q. Her machine was closely located to yours?

A. Yes, that's right.

Q. Do you recollect that on the morning that Mrs. Hamilton was put over on the conveyor line that there was an opening developed there?

A. Yes, I remember there was an opening.

Q. Do you recollect that the girl on that machine was transferred over into what they call repair or maintenance?

A. You mean taking off the conveyor?

Q. Yes, ma'am. [60] A. Yes.

Q. Do you recollect, now, that the regular girl who took care of repair and maintenance was absent or for some reason or other was not present on the morning of this conversation?

A. That's right.

Trial Examiner: Pardon me, if I may interrupt, I want to get one thing clear.

Am I to understand that these references to putting people on the conveyor, working on the con-

(Testimony of Eunice Ford.)

veyor line has reference to the operation previously described by Mr. Simon as lifting the harness off the jig and putting it on an overhead operation?

Mr. Macomber: Yes. For the sake of convenience, I'm referring, number one, to what we call the operation of the taping machine which has no particular relationship, is it not true, Miss Witness, to the conveyor belt operation?

The Witness: Yes.

Q. (By Mr. Macomber): The conveyor belt operation is a separate operation on which several girls work and that is the operation which so meticulously and laboriously was described in the record here this morning, is that correct?

A. That is correct.

Q. I have also referred in questions just asked you in reference to repair. That is a separate operation, is it not?

A. That's right. [61]

Q. Having no particular relationship to either the conveyor operation or the taping machine operation, is that right?

A. Well, when the harnesses come through, it goes down to repair.

Q. Do you know how many people work on repair, or did, on or about February 10, 1954?

A. I think just one person.

Q. Now, that one person was absent that morning, according to your recollection?

A. Yes, sir.

Q. And that is an important integral part and function of putting these things together, is that

(Testimony of Eunice Ford.)

not right, you can't go on and manufacture without the repair function? A. That's right.

Q. When that opening developed, do you not recollect that the woman who worked over on the conveyor in this, you call it the No. 1 spot, was an experienced repair woman?

A. I don't know whether she was or not.

Q. But you heard conversation to that effect, did you not?

Mr. Grodsky: I will object to that. She is not a supervisor. She doesn't know what goes on. He is inviting hearsay on that.

Q. (By Mr. Macomber): I am asking in this conversation that you had with Peggy, I am referring you just to a conversation [62] you had with Peggy. When Peggy told you some other things, did she tell you that she needed to move this experienced repair woman on the conveyor job over to the repair job because of the vacancy?

Mr. Grodsky: I object to that on the further ground there is no showing that Peggy has any control over who works at either of those jobs which are both under the supervision, I believe I pointed out, of Mrs. Greenwood.

Mr. Macomber: Here we have this strange motion, I move to strike all of the testimony here previously. I move to strike it now of this Peggy because I don't think that anything she said is binding upon the company at all. Counsel at that time vigorously contended that Peggy did have some such authority. For the purpose of cross-examina-

(Testimony of Eunice Ford.)

tion only, I am asking this lady about the same conversation that counsel is asserting objection to and what I consider to be perfectly good ground and, therefore, I at this time renew my motion to strike all the testimony of this witness that relates to any conversation that she had with this Peggy.

Trial Examiner: While ruling on the objections in the situation which the record now stands is as follows: On the basis of Mr. Grodsky's indication with respect to his contentions in regard to Peggy Redden, and his assurance that the matter would be appropriately connected up, I overruled the motion to strike and I overruled the objection [63] subject to a motion to strike, I should say, and at the present time and in the light of Mr. Grodsky's objection to the pending question or questions, I'm going to adhere to that original determination and continue to receive testimony with respect to any conversation the witness may have had with Peggy Redden subject to objection and motion to strike and I'm going to overrule Mr. Grodsky's objection on the ground that the conversation which, in its totality, may or may not be connected up, may, also, be probative or may not be probative depending upon what the record may further show as to Peggy Redden's relationship to the other operations discussed.

In other words, what he is objecting to now is the weight to be given to any statements Peggy Redden may have made about the relative capacity of these workers to do the repair operation. I con-

(Testimony of Eunice Ford.)

ceive that that objection goes not to admissibility but to materiality and weight and, therefore I'm overruling the objection.

Mr. Grodsky: Mr. Examiner, may I be heard one step further?

The record at this point does not disclose that the operation of the girl who works on repair was subject to the general control of the girls who were working with Peggy Redden as the lead girl. That was the basis of my objection.

Trial Examiner: Yes. I have that in mind, that fact. [64] Now, if the record should subsequently indicate that your contention is well taken, it may be that this entire conversation may fall into perspective as one relatively immaterial and of no probative value to anyone in the proceeding. If, however, the record indicates otherwise, I wish to have it in the record for whatever value it may have.

Q. (By Mr. Macomber): Peggy Redden worked on the taping machine only, did she not?

A. Peggy?

Q. Peggy Redden, she worked on the taping machine only?

A. Peggy insofar as I know is leadlady.

Q. She was a lead girl in the taping section?

A. In the taping section.

Q. And, likewise, she would do work, some productive work, did she not? A. That is true.

Q. I mean in her capacity as leadwoman, would you say she worked a very substantial portion of

(Testimony of Eunice Ford.)

time on jobs similar to the jobs which you were engaged in? A. Yes.

Q. Do you recall or know of a woman named Greenwood who worked over on the conveyor belt?

A. Yes, I know her.

Q. And the Redden woman did not work on the conveyor belt, [65] did she? A. No.

Q. Did the Greenwood woman work on the conveyor belt? A. Yes.

Q. Do you recollect that on the day in question when Mrs. Hamilton was moved over to the conveyor belt that the woman who worked on the conveyor belt, at least, the woman who worked on the conveyor belt and who was sent down to repair, that her place was taken by Ann Hamilton?

A. No, I don't think that is right. If I'm not mistaken, Debbie——

Q. Debbie who? A. Debbie Hobbs.

Q. Are you sure of that or merely speculating, now, as to who that individual may have been, in all fairness?

A. Let me put it this way, I remember seeing Jo Hutchins pulling harnesses. Debbie put on wires, Debbie was taken off and sent down to the repair table.

Q. Now, what had been your acquaintance with Debbie prior to that date, had you worked with her? A. You mean side by side?

Q. Yes. A. No.

Q. Do you know whether she had ever done or

(Testimony of Eunice Ford.)

had any previous experience at repair work? I believe you told us she had. [66]

A. No, I told you I didn't know for sure. I don't know for sure.

Q. Have you talked to Mrs. Hamilton about this case? A. I have never talked to her.

Q. Have you had occasion to discuss this with her at all, say, in the last three or four weeks?

A. No.

Q. To what union do you belong?

A. IAM.

Q. Have you had any discussion with anyone representing or holding themselves out as representing or purporting to represent the United Mine Workers? A. Yes.

Q. With whom?

Mr. Grodsky: I will object to that. I don't see the materiality.

Mr. Macomber: I think it is material in view of the special issue we are raising here, Mr. Examiner.

Trial Examiner: I will overrule the objection.

Q. (By Mr. Macomber): With whom have you discussed this? A. You mean this case?

Q. Yes.

A. The only person I know, he represented himself as a representative of the United Mine Workers.

Q. Who was that individual? [67]

A. A fellow named Al.

Q. And his last name is Sabatino?

(Testimony of Eunice Ford.)

A. Yes.

Q. When did he approach you on the subject of this case? A. I can't answer that.

Q. Would it have been within the last week?

A. No.

Q. Within the last month? A. No.

Q. How many times have you seen Mr. Sabatino?

A. I can't answer that, either.

Q. Where did you discuss the matter with him the first time? A. I don't remember.

Q. Do you recall whether it was at your house or at the plant or where?

A. I'm sorry, I can't remember.

Mr. Grodsky: Mr. Examiner, at this time I wish to renew my objection. My impression was that respondent's counsel was trying to tie this up in some way with the organizational effort of the United Mine Workers whereas now he is talking about the investigation of circumstances relating to this specific discharge which is an entirely different matter and I don't believe that any of the testimony of the witness on that point has any particular relevancy to anything that we are concerned with here. [68]

Trial Examiner: Well, I don't intend to have any extended discussion on the record. The fact that the witness may have discussed the instance with which we are not concerned with the representative of the United Mine Workers may have some bearing upon credibility. Whether it has any persuasive bearing of credibility is matter that will

(Testimony of Eunice Ford.)

have to bear record. Because of the relevaney in that connection, I will overrule the objection.

Q. (By Mr. Macomber): Have you filed or intend to file application for membership in the United Mine Workers?

Mr. Grodsky: Object.

Trial Examiner: The bearing of that particular matter upon credibility is relatively remote and the case raises collateral issues. For that reason while the general field of inquiry is still within competence of counsel, I will sustain this particular objection.

The Witness: Have I——

Mr. Grodsky: You don't have to answer.

Q. (By Mr. Macomber): May I ask what your intention is in this regard, do you have any present mental intention of joining the United Mine Workers?

Mr. Grodsky: Object.

Mr. Macomber: I'd like to be heard on this, if counsel please.

Trial Examiner: Very well, I will hear you. [69]

Mr. Macomber: I think that it is elementary that the bias, the prejudices, if any, the motives of a witness who appears to testify are always in very decided issue. That would be true even in the absence of the special defense that we have raised here. However, it appears in this case and it is in the record that there was some kind of factual dispute that was in progress out of which apparently the present difficulty stems. This witness has been very reluctant, obviously, to disclose any con-

(Testimony of Eunice Ford.)

versation she had. She is reluctant and unwilling to tell us where and when although she quite obviously seems to know with whom she had the discussions. I think that when I address a question to her, in view of the facts of the dispute, it is apparently existing whether she has any intention at the present time and she was very careful in the last question to put that distinction to you, Mr. Examiner, and that it has a vital bearing upon motives.

If she sits here now purporting to tell a conversation and relate facts which have a bearing upon this issue, I think the present intention to join on the part of the witness is part of the factual controversy and if it is dealing with representatives of the United Mine Workers I think it sheds light on the veracity, motives, interests, bias and it is for that reason that we are offering to propound that question. [70]

Trial Examiner: I wasn't of the opinion when the matter was raised that any contacts the witness may have had in the past with the representatives of the United Mine Workers may be relevant to credibility issues as relating to any bias that she may have. The question as to whether she may have a present intention with respect to joining the United Mine Workers if relevant and material also on the credibility issue presents somewhat a different problem. On the basis of the record as it now stands, I'm going to sustain the objection.

Q. (By Mr. Macomber): Has Mr. Sabatino

(Testimony of Eunice Ford.)

ever presented you with an application for membership into his union?

Mr. Grodsky: Object.

Trial Examiner: Sustained.

Q. (By Mr. Macomber): Have you ever signed such an application?

Mr. Grodsky: Object.

Trial Examiner: Sustained.

Q. (By Mr. Macomber): Have you ever been out socially with Sabatino?

Mr. Grodsky: Object.

Trial Examiner: I may ask, as I'd like to ask at this time in view of the nature of the testimony that the witness gave on direct examination which has bearing upon the general issue with which we are here concerned, obviously, but [71] in a manner and to a degree which is not yet apparent to me, is this extended exploration of the witness' bias in view of the limited nature of the testimony necessary? Granted that it's relevant, aren't we spending more time on it than it's worth?

Mr. Macomber: Let me put it this way, I can take a hint. I have no further questions.

Trial Examiner: Mr. Grodsky, any redirect examination?

Mr. Grodsky: No, no further questions.

Trial Examiner: Just a few questions that I wanted to ask.

Q. (By Trial Examiner): At the time Mr. Simon was on the stand describing the operations of the rotary table, he referred to the conveyor

(Testimony of Eunice Ford.)

operation or, rather, the operation that was involved in loosening the harness from the jigs, turning around and stepping approximately three steps and lifting it up to put it on the overhead conveyor.

Now, do I understand from the testimony that you have just given that there are more than one person assigned to that particular job?

A. I think two girls switched off, if I'm not mistaken.

Q. At the time with which we are concerned in February of 1954, was there more than one person at a time doing that particular job?

A. Only persons I can remember taking off harnesses is Jo [72] Hutchins and Freda Totito.

Q. Both did at the same time?

A. Oh, no. Freda worked before Jo.

Q. What I meant was at the time that Jo—let's put it this way, at the time Jo Hutchins was doing this operation was somebody next to her or a few feet down doing the same operation?

A. You mean helping her take the harnesses off?

Q. Well, now, you got me confused. I understood one person did it.

A. That's right.

Q. One person grabbed the harness and turned around, took a few steps and hung it up?

A. That's right.

Q. No other person had to assist physically?

A. That's right.

Q. Was another person doing it at the same time, were two people working at the same time?

(Testimony of Eunice Ford.)

A. Debbie, yes, right next to her, putting on wires.

Q. Working at the same job, the lifting job?

A. No, Jo did that by herself.

Q. By herself. And Freda, although she had done the same job did it before Jo was assigned there?

A. That's right.

Q. At the time Jo was doing it, Jo was the only one doing it? [73]

A. That's right. [74]

* * *

JAMES ARTHUR JUHL

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

* * *

Q. Please speak up, Mr. Juhl. Are you employed by Essex Wire Corporation?

A. Not at present. I am employed by Convair of San Diego.

Q. During the period ending in, say, middle February of 1954, were you employed by Essex?

A. Yes, sir.

Q. In what capacity were you employed?

A. Maintenance mechanic.

Q. Did you take any part in the activity on behalf of the United Mine Workers while you were

(Testimony of James Arthur Juhl.)

employed there? [75] A. Yes.

Q. What did you do?

A. Well, I helped pass out cards for membership in the Mine Workers.

Q. Did any supervisor talk to you about that?

A. Yes, my foreman, Clyde Casey, talked to me the second day I started passing them out.

Q. Do you know what date that was or approximately what date?

A. The early part of January. I don't know the exact date.

Q. What is the name of the foreman?

A. Clyde Casey.

Q. C-a-s-e-y? A. Yes.

Q. At the time he spoke to you was anyone else present to overhear the conversation?

A. No.

Q. Where did that conversation take place?

A. Took place right where the old maintenance shop used to be. By the air compressor right in the middle of the building. I don't know how to explain it.

Q. At what time of day did this conversation take place?

A. Right after lunch, around 1:30.

Q. What did Mr. Casey say to you and what did you say to him and will you speak up, please? It is hard for me to [76] hear you.

A. Well, anyway, I was coming near the punch press line which is right near that part of the fac-

(Testimony of James Arthur Juhl.)

tory and Casey called me over. He asked me, he says, if I was passing out membership cards for Mine Workers and I said I was. And he says, "Have you got any of them signed?"

And I said, "Yes, I do."

And he said, "What are you trying to do, make a fool out of me?"

And I said, "No," I didn't know quite what he meant. I said, "No."

He said, "Where are the cards?"

I told him I had them on me.

He said, "Don't you like your job here?"

I said, "Yes."

He said, "Well, I want the cards in my office in five minutes."

I didn't know what exactly to do. I took the cards and gave them back to the people on company time on threat of being discharged and went to the office and told him I gave them back to the people.

Then he went on to tell me—I gave the cards back to the people—and then he went on to tell me that in order for me to campaign and get another union, I first had to notify the front office of the plant and then I would have [77] to wait until the contract of the IAM expired and have to have a vote on two or more unions to see which came in and that was the end of that meeting.

Q. Did you have any further discussion with any representative of management relating to the United Mine Workers activities? A. Yes.

Q. When, now, in terms of time, when was the

(Testimony of James Arthur Juhl.)

next discussion? A. About a week later.

Q. With whom was this discussion?

A. Clyde Casey came and got me and brought me to the new maintenance department and Mr. Simon was there, standing there, and he asked me if I was campaigning on company time. And I said, "No, I wasn't campaigning on company time but I was on company property."

Well, he told me that we were causing a lot of grief, you know, while the people going up in arms against everybody and things like that and explained to me if I want to campaign to do it off the company property out of the company time. And I told him I was doing it during lunch hour and rest period and he said the rest period was company time because we were being paid by the company for rest periods.

So after that I sloughed off on the passing of cards. [78] After that we shook hands and I went back to work.

Q. By the way, did you at any time pass out any cards on behalf of the union during working time?

A. No, it was not. It was during my breaks and lunch hour.

Q. Did you at any time receive any signed cards from any employees who had signed cards during working time?

A. No, the ones I passed out at 10:00 o'clock that day, I got back at 12:00 noon.

Q. Now, did you have any further discussion

(Testimony of James Arthur Juhl.)

after the second discussion about which you have spoken with any representative of management?

A. Yes, one month later, in February, about the middle of February.

Q. Now, with whom was this discussion?

A. With Mr. Simon and Clyde Casey.

Q. And where did this third discussion take place?

A. In the maintenance department.

Q. Would you tell us what was said and who said it?

A. Mr. Simon asked me what the idea was making all the trouble for me and I asked him what trouble. And he said by passing it around that the Anaheim plant was getting higher wages.

Q. Just a minute. Please speak slower and louder.

A. O.K. He asked me what the idea was making all this trouble for me and I asked him what trouble. He said by [79] passing around that the Anaheim plant was getting higher wages per hour than we are down here and I told him I seen the contract and that is what it read.

And he said I will show you the contract I carry at your convenience. I said, "O.K."

He said, "I will let you see it."

I said, "O.K., if I am wrong I will go tell the people I'm wrong."

He went on to say—usually when I tell a person something, I don't like to be taken for a liar—he went on to tell me what the operations at the Anaheim plant were, in other words, highly skilled

(Testimony of James Arthur Juhl.)

operations and bigger machines and that is why some people are making more money at the other Essex Wire in San Diego.

Then I went on and asked him what about, you know, campaigning on company time. I said, "What about going around and trying to get retractions of the United Mine Workers on company time?"

And he told me that Goldie Riggins was allowed to go around and collect dues and process grievances on company time. And I told him the contract didn't allow to campaign on company time and he said it was sort of a gentlemen's agreement.

Q. How did the question of campaigning on company time come up in this discussion? [80]

A. Well, he went on to say that—I was speaking over there—he went on to say, "This is the second time I'm warning you about campaigning on company time and property," and he says, "If you don't stop you will not only have the IAM to fight but me to fight also and I will fight back but good."

Q. Did he indicate what he had reference to when he spoke to you about campaigning on company time and property?

Mr. Macomber: I am going to object to that as calling for a conclusion and opinion of this witness. He may answer as to the conversations he had.

Trial Examiner: I will sustain the objection.

Q. (By Mr. Grodsky): Did he say what he had in mind when he spoke about the campaigning on company time?

A. No, he didn't. He just said campaigning, you

(Testimony of James Arthur Juhl.)

know. I mean wearing buttons and stuff like that.

Trial Examiner: Are you quoting him now?

The Witness: Well, no, but I mean that covered that. He didn't say "buttons and stuff like that." He said campaigning and that was the only campaigning over there, wearing buttons and stuff.

Q. (By Mr. Grodsky): Mr. Juhl, he made reference to talk in the middle of February to your having spoken to employees about what the employees in the Anaheim plant were earning, is that correct? [81]

A. I talked to four employees outside the company property during lunch hour. I think it was the day before he talked to me and I imagine it was they practically came in and told the rest of the——

Mr. Macomber: That is hearsay. I ask it be stricken.

Trial Examiner: It will be disregarded.

Q. (By Mr. Grodsky): You spoke to four people, four employees on the date before the day that Mr. Simon spoke to you and that was during the lunch hour? A. That's right.

Q. Was that the discussion to which Mr. Simon referred when he spoke to you?

A. That is what he referred to. He said that was going around the plant, that I was trying, that I was spreading the rumor that Anaheim was getting more money than Essex Wire.

Mr. Grodsky: No further questions.

Mr. Macomber: I think it would be appropriate

(Testimony of James Arthur Juhl.)

at this time to call to your attention, Mr. Examiner, a portion of General Counsel's Exhibit No. 4 which is the current agreement in force and effect between the IAM and the company and I allude specifically to Article 3 thereof which provides in part as follows: "The Union shall be represented by committeemen or women—committeewomen in parentheses—hereinafter called committeemen who shall serve in one or [82] more departments in the plant by mutual agreement between the company and the union, total number not to exceed eight. One may be added for each 100 employees in the bargaining unit over 300." And so forth and so on.

Then next referring to the grievance procedure in Article 5, Step No. 1, "Employees must contact the committeeman who will discuss the matter with the department foreman."

I call specifically to your attention these articles but urge also the whole grievance procedure be examined.

Cross-Examination

By Mr. Macomber:

Q. And with that in mind, I will ask you now this question: Goldie Riggins was the committee-woman, was she not, for the IAM and you understood her position as such at that time?

A. Yes, sir.

Q. And it was customary and usual for employees under her jurisdiction to contact her at all

(Testimony of James Arthur Juhl.)

times during working hours if they had a problem?

A. If they had a grievance, yes.

Q. Anything in connection with the grievance or anything that fell within her jurisdiction as committeewoman, whatever that jurisdiction may have been, right?

A. As long as it had something to do with grievance.

Q. When did you go to work for Essex Wire Corporation? A. February 4, 1953. [83]

Q. And you left their employ when?

A. June 9, 1954.

Q. Are you still a member of the United Mine Workers?

Mr. Grodsky: Object.

Trial Examiner: Well, once again we come to this credibility matter. I am reluctant to be unduly restrictive in this matter of testing the witness' credibility but it seems to me, Mr. Macomber, that mere membership in the organization while it has some bearing, of course, there is comparatively little reliable light on the credibility issue.

In other words, I'm just thinking to myself if the witness answered in the affirmative, how seriously would that affect the problem? And while I can see some relevance and materiality in the credibility exploration that deals with any discussions the witness may have had with a union representative bearing upon the specific matters related in his testimony, this general exploration of the field of contacts by way of bare membership, if I may so

(Testimony of James Arthur Juhl.)

describe it, seems to me to be getting off into a sort of shadow area where the materiality of the evidence becomes very difficult to weigh.

Mr. Macomber: May I be heard briefly?

Trial Examiner: Yes.

Mr. Macomber: I don't know, of course, what the impact of such testimony may have on your mind but I would suppose [84] that if it be true and it has certainly been suggested in the evidence that it is true that there was a serious dispute developing between these two unions and that the question of membership in one union or the other might have conceivably, would to my mind have a serious, at least, it would be a factor that would weigh heavily in the matter of the credibility of the witness. If we have here, as we suggest, this organizational attempt, we consider this organizational attempt to so proceed on the part of the United Mine Workers to accomplish I know not what by this proceeding and if this man is a member of the United Mine Workers, I would suppose that even though you should choose yourself to regard it as having only a shadowy bearing on his veracity, nevertheless, would have some bearing and, therefore, would be material to that extent.

I would also urge that we have raised here as a sort of a special defense the question of the standing of the United Mine Workers at all. In proceedings of this kind and the question as to whether organizing on their behalf a so-called unauthorized union would be protected under the Act.

(Testimony of James Arthur Juhl.)

Under those circumstances, it is for that dual purpose that I respectfully request that it be considered.

Trial Examiner: With respect to the second purpose, I indicated previously when you made the statement for the record that you would be at liberty to urge it at any [85] appropriate point in the proceedings by way of motion to dismiss or any other fashion you saw fit. However, I may say by way of observation at this time that it's my understanding of the decisional doctrine on the subject that that question has already been settled contrary to the company's contention. You are, of course, urging again for consideration by the Board. On the basis of established precedence I would have to rule that the mere fact that these individuals may have been acting for a non-complying union does not disqualify them for receiving such protection as the Act may afford to persons allegedly subjected to discriminatory treatment.

With respect to the other issue, that is, the matter of membership as bearing upon credibility, in effect, my statements on the record with respect to Mrs. Ford tended to make any position in that regard clear. I foreclosed by sustaining the objection on examination as to her intentions in regard to membership or whether she had been a member and any contacts with union and with personnel and contacts directly relating to matter of testimony, that is, discussion she may have had. Those rulings were

(Testimony of James Arthur Juhl.)

based upon substantially similar considerations, that is, consideration as to whether in the event of affirmative or supposedly a discriminating answer, whether there would be sufficient doubt cast on credibility to make the point worth considering. And I was then of the opinion that membership or intention to become a [86] member, while it might have some bearing, certainly it does have some bearing on claim of interest or bias, threw so little light on the subject I could not in good conscience and performance of my functions as Trial Examiner rely upon it as a persuasive factor and consistent with my ruling, I am going to sustain the objection.

Q. (By Mr. Macomber): May I ask you, sir, if you have had occasion to discuss this matter or your testimony here given with an agent or representative of the United Mine Workers before coming here or with one whom you understood to be either a representative or agent of the United Mine Workers?

Mr. Grodsky: I will object to that question on the ground it is compound. There are at least four different questions in there.

Trial Examiner: If the witness understands, he may answer.

The Witness: Well, I didn't, all the United Mine Workers told me to do is that at any time any——

Q. (By Mr. Macomber): I just asked you

(Testimony of James Arthur Juhl.)

whether you had a conversation. That is my question at this time.

A. Not about the whole testimony, no.

Q. About any testimony you were going to give here? A. Any one part, yes.

Q. Who is the particular individual with the United Mine Workers with whom you discussed this matter? [87]

Mr. Grodsky: I will object to it, Mr. Examiner.

Trial Examiner: Overruled.

The Witness: Well, I forget what his name is. The first name is Al.

Q. (By Mr. Macomber): Was it Sabatino or some such name as that?

A. I believe it was.

Q. When did you discuss it with him?

Mr. Grodsky: Mr. Examiner, I have a standing objection to this entire line.

Trial Examiner: You have a standing objection. For the record, the objection is overruled.

The Witness: When, the exact date, I don't know but it was when he first came down from Los Angeles.

Q. (By Mr. Macomber): Was that within the last month? A. No.

Q. The last two months? A. No.

Q. Three months?

A. It was back sometime in January.

Q. Have you discussed it with him or such a representative since? A. No.

(Testimony of James Arthur Juhl.)

Q. Have you discussed this matter with either Ann Hamilton or Loraine Evans? [88]

A. Yes.

Q. Have you discussed it with them within the last week? A. No.

Q. Within the last month?

Mr. Grodsky: I will object to this, Mr. Examiner.

Trial Examiner: Overruled.

The Witness: No, I don't think since last month, back when everything was going pretty strong. There was an uprising, whenever it first started, it was back there.

Q. (By Mr. Macomber): Have you discussed this matter or the subject of your testimony with anyone except a member of the Board or someone representing the Board within the last 30 days?

A. No.

Q. Do I understand within the last 30 days until the time you came up here and testified a few moments ago you had not discussed this with anyone whomsoever, the union representative or either of the complainants as to this matter, or anyone?

A. Other than the Board?

Q. Yes. A. The last 30 days, that's right.

Q. Now, what were your working hours at the time, well, on or about the 1st of February of this year?

A. My working hours was the day shift, 8:00 until 4:30.

Q. 8:00? [89] A. Pardon, 7:30 until 4:00.

(Testimony of James Arthur Juhl.)

Q. 7:30 until 4:00. Was it 7:45 until 4:15?

A. Yes, that's right.

Trial Examiner: That is your present understanding?

The Witness: Yes. It was from 8:00 until 4:30 and was changed on account of the parking problems.

Q. (By Mr. Macomber): How much time did you have off for lunch during that time?

A. One-half hour.

Q. Pardon? A. One-half hour.

Q. So altogether, excluding your half hour lunch period, you worked eight hours, is that right?

A. That's right.

Q. And you were paid for eight hours?

A. That's right.

Q. And in addition to that, whenever it was necessary for you to go to the men's room or anything of that kind, you went, is that correct?

A. That's correct.

Q. Well, do I understand, then, that there were periods of time that you had so-called rest periods?

A. Yes.

Q. This is the period of time in which you circulated these membership cards? [90]

A. Yes. Well, that doesn't take in going to the rest room. I'm talking about the standard 10:00 o'clock break and 2:30 break.

Q. Well, you had a break at 10:30, did you, at 10:00 o'clock? A. Yes.

Q. You were paid during that break, weren't

(Testimony of James Arthur Juhl.)

you? A. That's right.

Trial Examiner: How long did the breaks last?

The Witness: Ten-minute break.

Q. (By Mr. Macomber): Now, do I understand that it was during the break that you circulated these membership cards?

A. I circulated them before, too, I mean when I come to work I punch in but that wasn't on company time.

Q. In the plant before the 8:00 o'clock bell rang?

A. That's right.

Q. Do I understand that you never at any time, not one, circulated these membership cards except during this so-called break?

A. That's right.

Q. Never discussed the subject of membership in your union with an employee except during this five or ten-minute break?

A. The only time I ever discussed—all I do is answer questions somebody asked me.

Q. Did people from time to time ask you questions?

A. Yes. [91]

Q. On company time?

A. Yes. Alice, I don't know her last name, she asked me a couple questions on company time.

Q. Did anyone else ask you questions on company time, without identifying them, were there other people who asked you questions?

A. Yes, Goldie Riggins showed me some form on company time.

Q. When these folks asked you about your union

(Testimony of James Arthur Juhl.)

or direct such questions as they did, would you undertake to answer their questions?

A. In the briefest possible way, yes.

Q. And how long had that been going on, that is, the subject of your asking questions and them asking questions of you and your answering them prior to February 10, 1954?

A. Oh, well, from the time I started passing those cards out.

Q. When did you start passing them to the employees initially?

A. First part of January, maybe, well, first part of January.

Q. Well, it was sometime after the middle of January, was it, that someone spoke to you first about the passing out of those cards?

A. No, it was about how many we had, how many people there were and that sort of stuff.

Q. As I understand, Casey was the first one to speak to you [92] about membership cards?

A. Yes.

Q. And at the time Casey spoke to you, you told us that in the first conversation, I believe, that a Mr. Baker was also present?

Mr. Grodsky: I object to this, Mr. Examiner. That is contrary to the testimony of the witness.

Q. (By Mr. Macomber): Was a Mr. Baker present? A. In the first conversation?

Q. In the first conversation that you had?

A. There was nobody within hearing distance except me and Mr. Casey.

(Testimony of James Arthur Juhl.)

Q. Now, the second conversation, I believe, you told Mr. Simon was there, and Mr. Casey was there, is that right? A. Yes.

Q. Now, was Mr. Baker there on that occasion?

A. Mr. Baker, is he Lee Baker? He walked up there for five minutes and walked back but I don't think he heard anything that was of importance.

Q. He was there, anyway?

A. He was there for about five or six minutes.

Q. On the third conversation that you told us about, do you recollect whether Mr. Baker was present? A. No.

Q. Do you recollect on the second occasion when you say Mr. [93] Simon was there, do you remember Mr. Simon saying, "Come on over here, Mr. Baker, come over somebody else and come over here, Casey, I want everybody to hear this"?

Do you remember him making any statement like that? A. No.

Q. Do you remember him saying to you he didn't care what you did in the way of carrying on your membership campaign as long as you didn't do it on company time and just stop right there, do you remember him making such a statement to you as that? A. Yes, and property.

Q. Company time and company property, is that what he said to you? A. That's right.

Q. When you said something to him about this break, did you say something at that time?

A. Yes, I told him I was passing out and taking them on breaks, lunch and before work.

(Testimony of James Arthur Juhl.)

Q. He told you, did he, that that was company time or regarded as company time?

A. That's right. After that I stopped.

Q. All right. You mean to say after Mr. Simon spoke to you you never thereafter circulated any membership cards at all?

A. I circulated but it wasn't during breaks. [94]

Q. When did you circulate them?

A. Lunch, before work.

* * *

Q. (By Mr. Macomber): You indicated that you were a maintenance man, is that right?

A. That's right.

Q. That is while you were at Essex Wire Corporation? A. Yes.

Q. And as such you circulated about the plant, did you not? A. That's right.

Q. And sort of from department to department and employee to employee?

A. Well, put it from department to department and machine to machine. [95]

* * *

Q. When Mr. Simon spoke to you on the first occasion, was his manner and tone of voice one of courtesy? A. Oh, yes. He talked nice to me.

Q. He didn't shout at you or anything of that kind?

A. No, sir, he didn't. We shook hands after that.

Q. There wasn't any anger? [96]

(Testimony of James Arthur Juhl.)

A. There wasn't any hard feelings. We shook hands.

Q. You had always gotten along with Mr. Simon prior to that day?

A. I enjoyed working with him.

Q. And found him very pleasant, is that right?

A. That's right.

Mr. Macomber: That is all.

Mr. Grodsky: Mr. Examiner——

Trial Examiner: Just a minute.

Mr. Grodsky: Well, I have something which I inadvertently overlooked and I want to ask the witness something new. I thought I might do that before.

Redirect Examination

By Mr. Grodsky:

Q. I show you General Counsel's 2 in evidence which is a notice that had been posted on the bulletin board and ask you if you saw a notice posted on the bulletin board concerning union campaigning?

A. Yes, I seen that notice on the bulletin board.

Q. Is this notice which I hand you the same as the notice which you saw posted on the bulletin board?

A. The signature isn't quite the same. I believe it was Tom McCall or something like that. I don't know his position there.

Q. Tom Walton? A. Walton, yes. [97]

Q. Now, I will ask you to look at the second

(Testimony of James Arthur Juhl.)

paragraph in this General Counsel's 2 and ask you if that is the same, if that appears to you to be the same?

A. It sounds the same. It has the same, I don't know exactly, I couldn't say for sure whether it was the same or wasn't.

Q. The first paragraph of that you are sure is the same? A. Yes.

Q. The second, you are not sure of one way or the other?

A. I don't know, I couldn't say.

Q. Do you remember whether or not the one you saw there had any specific reference to company property?

Mr. Macomber: I'm going to object to that, as leading and suggestive.

Mr. Grodsky: The question is whether or not. I'm not suggesting either way.

Mr. Macomber: I suggest you can't avoid the rule by appending whether or not and then asking a perfectly leading question.

Trial Examiner: Just a minute. I'd like to give some study to General Counsel's 2.

I will sustain the objection.

Q. (By Mr. Grodsky): Do you have any present recollection, Mr. Juhl, of anything that you recall that was in the notice that you don't see in that notice? [98] A. No, I don't.

Q. Now, you testified on cross-examination that Goldie Riggins at one time during working hours showed you some form? A. Yes.

(Testimony of James Arthur Juhl.)

Q. What was the nature of that form, what was it about?

A. Well, the form was on another plant that the IAM, what she thought had taken over from the Mine Workers in the plant and they had a vote in the plant and the IAM was the raiding union and the Mine Workers carried the contract of that plant. But, anyway, well, quite a few different unions all got in together, all AFL, and said, "Look, the Mine Workers haven't got any votes."

Well, the non-voting employees who put "No" down actually were for the Mine Workers.

Q. She showed you the tally of the ballots of the other election?

A. That's right. And I told her what it meant so she wouldn't tell the people, you know, a lot of bunk. So she went to her union and told her union about it and then they straightened her out.

Mr. Grodsky: I have no further questions.

Recross-Examination

By Mr. Macomber: [99]

* * *

Q. With reference to General Counsel's Exhibit No. 2, when did you say you left the plant, left the employment of the plant? A. June 8th.

Q. Was there such a bulletin as this bulletin on the board at that time or had it been removed prior thereto, if you know?

(Testimony of James Arthur Juhl.)

A. I believe it was removed.

Q. Do you recall when it was removed?

A. No.

Q. Do you recall ever seeing this bulletin except up on the bulletin board?

A. Right near the timeclock in the glass enclosed place.

Q. How frequently did you see it?

A. Well, I read it when it was first put up and after that I didn't pay too much attention to it.

* * *

Q. Would you say it was put up on the bulletin board on the 14th of January, 1954, as would be indicated on the face [100] of the bulletin?

A. Yes.

Q. Then you are not prepared to say, are you, that the original notice posted on the bulletin board contained any language different than what appears here?

A. No, it's about the same. I know the top paragraph, I know it is just the same as the top paragraph.

Q. This looks like the notice?

A. Yes, but the reason, Tom, I notice his name, I was wondering what authority he carried there.

Q. You are not prepared to say under oath, are you, that the notice that was posted on January 14, 1954, was any different than the notice we have here?

A. I wouldn't say it was different. I know the

(Testimony of James Arthur Juhl.)

top was but the bottom don't register.

Q. In other words, you are not sure?

A. I'm not sure about whether or not the signature of the original notice is the signature of Simon or the signature of the other man. The signature on that one was put in ink.

Q. Well, did Mr. Simon's name appear, according to your recollection, on the original bulletin anywhere, or don't you have a recollection?

A. Yes, I do. I believe it was up on top, Tom, or whatever his name was.

Q. And you think somebody signed below Mr. Simon, is that [101] right? A. Yes.

Q. Prior to the issuance of that particular bulletin, you had been advised through company rules and otherwise that campaigning for union purposes during working hours was not permitted, were you not? A. Yes, so advised.

Mr. Macomber: That is all.

Q. (By Trial Examiner): Mr. Juhl, when you were asked to specify your working hours and you indicated that you worked between 7:45 and 4:15, let me ask this, were those the hours, the actual working hours that were in effect in January and February?

A. Yes, I believe they just changed working hours. We were working from 8:00 o'clock until 4:30 but there was too much traffic.

Q. Do you remember when that was changed?

A. No, I don't.

Q. Well, with relation to this time, having in

(Testimony of James Arthur Juhl.)

mind the date early in January when you began passing out cards and the dates of these conversations with Mr. Casey and Mr. Simon, was the change in working hours accomplished at any time during that interval or before that or after?

A. It was before all this union trouble started.

Q. Before all the union trouble started? [102]

A. Just right, maybe, at the beginning of the union trouble, at the beginning or a little before.

Q. So that the shift from 8:00 o'clock starting time to 7:45 a.m. starting time would have occurred as you now recall it sometime early in January?

A. Early in January or late in December.

Q. Very well. When you spoke in your testimony of an 8:00 o'clock starting bell, was that 8:00 o'clock starting bell a starting bell for the purpose of getting production going after this change in hours or before?

A. It was before that change.

Q. After the change when your hours were according to your testimony 7:45 to 4:15, when did the starting bell ring?

A. The starting bell rang at three minutes, let me see, 7:43.

Q. In other words, your reference to the 8:00 o'clock starting bell was reference to the situation that existed before our holiday problem arose?

A. Yes.

Q. Very well. Now, having that in mind, what is your present recollection with respect to any union activity you may have engaged in in January and

(Testimony of James Arthur Juhl.)

February when, in relation to the starting bell, you passed out cards before work?

A. Well, at the start of work. Well, I passed out cards [103] before the bell rang—before the working bell.

Q. If the bell rang at 7:43, your testimony is you passed out cards on those occasions only before 7:43?

A. Yes, I was so used to the starting bell at 8:00 o'clock. That is the only time, before the bell rang. Then when it rang at 10:00 o'clock and during the lunch hour, then the 2:30 break and then after work. If I was talking to somebody outside the gate and driving somebody some place, I would talk to them about it.

Q. When was your lunch hour?

A. 12:00 noon.

Q. Until 12:30? A. Yes.

Q. A uniform lunch hour for everyone in the plant? A. Yes. [104]

* * *

JAMES C. HAMILTON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. Will you please state your name and address?

A. James C. Hamilton, 269 San Jacinto, San Diego.

Q. Are you employed by Essex Wire Corporation?
A. Yes, I am.

Q. In what capacity?
A. Packer.

Q. How long have you been working for that company?
A. Fourteen or fifteen months.

Q. Did you engage in activity on behalf of the United Mine Workers?
A. I did.

Q. And do you recall the date when you—
strike that.

You were, did you wear a button on behalf of the United Mine Workers?
A. I did.

* * *

Q. (By Mr. Grodsky): Do you recall the date when you first [110] started to wear a union button?
A. February 8.

Q. Of 1954?
A. This year, '54.

Q. Did any employees of Essex Wire wear buttons before that date?

A. Yes, they did. I think they wore the IAM buttons which was passed out two or three days

(Testimony of James C. Hamilton.)

before we ever put the Mine Workers' button on.

Q. Did you see employees of the IAM wearing buttons at any time before, say, a week before you put on your buttons? A. I did.

Q. When was the first time you saw them wearing those buttons?

A. Well, like I stated, the first time that I seen it was three to four, maybe a little longer, that week, and then the following week is when we put ours on. It was on a Monday morning that they had already had their buttons on.

Q. Mr. Hamilton, I want to make myself clear. You put your buttons on on February 8th?

A. Yes.

Q. The Monday before that would be February 1? A. Yes.

Q. Now, do I understand you correctly that the IAM people put on their buttons during the week of February 1? [111]

A. I will say they did, yes, sir.

Q. Were they wearing buttons before February 1?

A. As I recall, I won't say for sure, but I don't believe so.

Q. Did you observe where they got their buttons from? A. Yes, I did.

Q. Whom did you see distributing buttons?

A. Mr. Sienco, IAM representative.

Q. Mr. Sienco? A. Sienco, S-i-e-n-c-o.

Q. Is he an employee of the company?

A. No, he's an IAM representative.

(Testimony of James C. Hamilton.)

Q. When you saw him distributing buttons, was he in the plant? A. He was in the plant.

Q. What part of the plant?

A. Over by the tapers.

Q. And was it during, well, what time of the day was it?

A. I'd say between 2:30 and 3:00 o'clock.

Q. Well, there's a break, a ten-minute break at 2:30, isn't there? A. Yes, there is.

Q. Was it during that break he was distributing the buttons? A. No, it wasn't.

Q. It was after the break period was over? [112] A. Yes, it was.

* * *

Q. (By Mr. Grodsky): Did anyone talk to you about the Mine Workers' button that you were wearing, any representative of management, I'm talking about?

Mr. Macomber: I will object to the form of that question. Well, if it's a preliminary question, I will withdraw my objection.

Trial Examiner: Very well.

The Witness: Yes.

Q. (By Mr. Grodsky): Who was it that spoke to you about it? A. Mr. Simon.

Q. When, what day did he speak to you about it? A. February 8.

Q. Is that the first day on which you put on the button? A. First day.

(Testimony of James C. Hamilton.)

Q. What time of the day did he speak to you about it?

A. Right after the 10:00 o'clock break. [113]

Q. Where?

A. In my foreman's office, in the shipping-receiving office.

Q. Was anyone else present?

A. Yes, there was.

Q. Who? A. Goldie Riggins.

Q. She is the same Goldie Riggins who has been identified here as an IAM committeewoman?

A. Yes, sir.

Q. Well, will you tell us who said what in that conversation?

A. Well, the reason that——

* * *

The Witness: I went to work on February 8th. I got there at 7:00 o'clock and about 7:25 I left from the coffee [114] table and went back to the side I used to work, on the taillights. So I was sitting there talking to this Irene, I don't know her last name but the leadlady on that side. Me and her was sitting there talking and I was asking her why she didn't speak any more and if she didn't speak I was going to tell her husband, just talking back and forth.

This Jean, I don't know her last name that works down there, she came in and came right on the other side of me and stopped and made a statement so that I could hear.

(Testimony of James C. Hamilton.)

Mr. Macomber: I am going to object.

Mr. Grodsky: This is all preliminary.

Mr. Macomber: All right, go ahead.

The Witness: She said——

Mr. Macomber: I'm going to object to this as hearsay. I don't know what he is going to come out with.

Trial Examiner: If it has any hearsay aspects, it will be disregarded in my evaluation of the record.

The Witness: Well, she said why didn't I get back on the other side of the plant, that they didn't want me on this side they work on.

And so I didn't say nothing to her. I kept talking to Irene and she said if I didn't like the union that was in here—now, she used a word in there—why didn't I get out. And so then I turned around to her and I said, "Listen, Jean, I'm not talking to you but I'll tell you this now, if [115] you start on me, then I start on you whether in the plant or outside this plant."

So then the bell rung for us to go to work. At the 10:00 o'clock break, Goldie Riggins, committee-woman for the IAM, came up and told me——

Mr. Macomber: I am going to suggest it be understood the same objection applies to anything Goldie Riggins said on the ground of hearsay.

Trial Examiner: Well, I assume that the witness—I won't assume anything, but I will make the statement that if anything is testified to by the witness with respect to any statements that Goldie

(Testimony of James C. Hamilton.)

Riggins is offered for the truth of matter allegedly asserted by Goldie Riggins, it would, therefore, be hearsay and disregarded as hearsay.

If the statement which the witness is about to attribute to Goldie Riggins is offered for non-hearsay purpose, it will be received for non-hearsay purpose. Go ahead.

The Witness: She came up to me on the 10:00 o'clock break and told me that Jean was going to file a grievance against me for threatening to slap her which I told Goldie exactly what I had said.

She said she was going to see Mr. Simon and I said, "Well, I will go with you."

We went into my foreman's office there where he was [116] waiting for Mr. Simon and so he came down and Goldie told Mr. Simon and said, "Mr. Simon, I have a complaint to turn in to you against Hamilton here."

So Mr. Simon asked her what it was. And so she told him and I told Mr. Simon exactly what I had said to her and then Mr. Simon told me, he said, "If Jean filed a grievance against you and can get a witness stating that you made the statement that you was going to slap her, then, I would have to fire you."

Then I told Mr. Simon again exactly what I said to Jean and I said, "You know yourself if they get the IAM people to get a grievance against me they can get a witness to state that I stated I would slap her on account I'm active for the Mine Workers."

(Testimony of James C. Hamilton.)

Then the conversation went on and I told Mr. Simon that I was not campaigning on the company's time or company's property for the [117] Mine Workers.

* * *

He said, "I pay you for the break and that is my time," and he said, "I'm giving you this warning now so you can take it."

And he said, "I want you to get back in your station and stay there."

So that was the first time Mr. Simon said anything to me about this union. So I went on back to my station, my work.

* * *

Q. Did you put that button back on again at some other date? A. I did.

Q. When, how long after that Monday did you put your button on? [118] A. February 10.

Q. And what day of the week was that, do you recall? A. Wednesday.

Q. Now, on that day, do you recall that your wife, Ann, left the plant that day?

A. Yes, I do.

Q. Now, did you see her—strike that.

Do you know what time she left the plant?

A. Yes, I do.

Q. Did you see her at that time?

A. Yes, I did.

Q. Now, will you tell us the circumstances under which you happened to see her at that time and if

(Testimony of James C. Hamilton.)

there was any conversation involved, will you tell us with whom there was a conversation?

A. Well, at 10:00 o'clock the bell rung that morning at 10:00 o'clock. And so my wife, and she was coming out and I was coming down from my station to where she was at and she was there with this Mel, her foreman.

Q. Mel Kresin? A. Mel Kresin.

Q. She was standing talking to her foreman, in other words, as you came up?

A. As I came up from my station.

Q. What did you hear in the conversation? [119]

A. I heard Ann ask Mel, she said, "Mel, can I go home?"

And Mel asked her, he said, "What's wrong, are you sick, have you been in to see the nurse?"

And Ann told him, she said, "What's wrong with me a nurse can't help me."

And so then Mel told her, "Well, I hate to see you go home."

She said, "Well, how about a slip?"

He said, "You go ahead, I will fill the slip out and then turn it, I will turn it into the nurse."

And so I gave Ann the house key and I told her that I would get her things for her. So I gave her the key and went on and I guess it was a minute or two before the nurse came up and Mel was still standing there.

Q. After your wife left, did you and Mel have a conversation before the nurse came up?

A. Yes.

(Testimony of James C. Hamilton.)

Q. What was said, who said what in that conversation?

A. Well, I asked Mel, I said, "Mel, what is going on?"

I said, "Why are they still picking on Ann?"

And he said, "I didn't know they were picking on her."

I said, "They are. Every time they get ready for another job on the tapers they come and get Ann when they got other girls over there working."

And he said, "Well, we can't show no partiality here." [120]

I said, "Yes, I realize that but it looks like they are picking on Ann."

So he said, "I have nothing to do with that."

So then that is when this nurse came up, she came up and said, "Mel, did you give Ann permission to go home?"

And he said, "I did, I told her to go on home and I'd fill out the statement for her and turn it in to you."

She said, "I just wanted to know."

She turned around, went back up to the office and Mel still stayed there. I guess it was about a minute after she left that we were still there talking.

Q. What did you say to him and what did he say to you?

A. He told me that Peggy, the leadlady, Peggy Redden, I believe her last name is, told him they needed another girl on the big conveyor.

(Testimony of James C. Hamilton.)

Mr. Macomber: Who is this, who are you quoting now?

The Witness: Peggy came up to her foreman which is Mel Kresin and told him—that was in the morning—that they needed another girl on the big conveyor and Mel told her to get one of the girls off the tapers and so Peggy——

Q. (By Mr. Grodsky): Is this what he told you now? I'm only interested in what Mr. Kresin said to you and what you said to him.

A. What he said to me. He told me he told Peggy to get another girl and put her on there. And I said, "Mel, it's [121] awful funny they go right straight to Ann every time they want another girl to go on a different job," and I said, "She didn't know nothing about that job and she puts out twice as much work as just about any girl on that taper that you got."

And he said, "I know that. Ann likes her work and takes an interest in it. She's interested in it."

And I said, "Well, why didn't you leave her on there?"

And he said, "Well, that, I have nothing to do with. Peggy needed a new girl so I told her to get one."

And so then I left and went back to my station and I was finishing getting an order for Marlin which is a shipper in our department. He handles all orders and I said to him to get a partial order I had to have.

Q. Did you return to work before the end of

(Testimony of James C. Hamilton.)

that break? A. I did.

Q. Did you have occasion to notice your wife's hands at the time you gave her the key?

A. Yes, when I gave her the keys, on the top of her hands was scratched, they was cut and they was also bleeding when I handed her the keys.

Q. Was Mr. Kresin standing right there at the same time? A. He was.

Q. Did you have any further conversation relating to your union activity after the time that you have already spoken [122] about?

A. Will you repeat that, please?

Q. Well, I will rephrase it. Did you have any other discussion about your union activity after this incident? A. Yes.

Q. When did you have such conversation?

A. Well, I guess that was about 10:30 or 25 minutes to 11:00.

Q. Was it on the same day, in other words?

A. Same day.

Q. With whom did you have this conversation?

A. Mr. Simon.

Q. Where did this conversation take place?

A. By the coffee tables.

Q. Was anyone else present?

A. No, sir, not at the time.

Q. Will you tell us what happened, what Mr. Simon said, what you said, and so forth?

A. I came out of the men's rest room and I had started back to my station and so I was on the other side of the coffee table when Mr. Simon and this

(Testimony of James C. Hamilton.)

other supervisor, Harms, was coming down the aisle. So Mr. Simon, he seen me and hollered at me and an ugly word was used in there, I won't repeat, and he said, "Jimmie."

I said, "Yes, sir." [123]

And he said, "Come here."

So I walked over to him. He said, "Just what are you doing over here now?"

And I told him I had just come back from the rest room.

He said, "Didn't you just get a ten minute break?"

And I said, "Yes, sir, but I worked through part of my rest period."

And he said, "You mean to tell me you have to go this early after the break again?"

And I told him that I hadn't went yet. I repeated I had worked part of my rest period getting my order out.

And when I told him that, he said, "I still see you have on this badge, you are still wearing it."

I said, "Yes, sir, I still got the badge on."

He said, "I thought I told you one time to take it off."

I repeated to him, "You did."

He said, "Well, I'm telling you again to take it off."

I said, "Mr. Simon, I'm not going to take my badge off. If the other people in here can wear IAM buttons, I don't see why I can't wear a button of the Mine Workers."

(Testimony of James C. Hamilton.)

And he said, "Well, that is the union that represents them."

And I told him, "This is the union that I believe in."

He said, he came up and said that if I like my job and [124] I didn't repeat him, I didn't say nothing the first time.

He asked me, he asked me again, "I asked you, did you like your job?"

I said, "Mr. Simon, if you want to fire me, you better have a good reason because when you do, I'm going to file charges."

And he said, "I don't care what you do and as far as any union getting in here, I don't care what union gets in here, whatever union gets in here, I'm going to run this plant just the way I want to."

And he said, "As far as that goes, I can close this plant down any day and send the work up to Anaheim because they can do it, they can put it out."

And I said, "I realize that you're in a position to do it."

And he said, "You know you caused me a lot of trouble."

And I said, "I didn't know I was causing you that much trouble."

And he said, "Well, you are."

He said, "I'm going to tell you again, I want no more trouble out of you. I want you to get back in your station and I want you to stay there."

So then I told Mr. Simon then, I said, "Mr. Simon, when I have to go to the bathroom, I'm

(Testimony of James C. Hamilton.)

going to the bathroom. I'm not going to stand around there and hold it for nobody." [125]

And he said, "Are you telling me what you are going to do?"

And I said, "You are telling me what I can do and what I can't do."

That is when he said, "You quit hollering at me."

I said, "Well, you are hollering at me, aren't you?"

He said, "You get back in your station and I don't want to see you back around here so early after the break."

And so then when he walked off, it was a couple words spoke, I don't remember exactly what it was. I went back to my station again.

Q. Now, after you had taken off your button on the 8th of February and before you put it on on the 10th, did you have any conversation or did you consult with anybody about your rights to wear a union button? A. Yes, I did.

Q. With whom did you talk about that?

A. With Sabatino.

Q. What were you told?

Mr. Macomber: I object to that as irrelevant, incompetent, immaterial, calling for hearsay. Sabatino is the union Mine Workers' representative as I understand it.

Trial Examiner: Objection overruled.

The Witness: Mr. Sabatino told us that as long as we was not getting no cards or campaigning on company time that [126] we could wear our badge any time that we wanted to and it was, nobody could

(Testimony of James C. Hamilton.)

make us pull them off and so I told him, I said, "That is all I wanted to know."

Mr. Grodsky: I have no further questions.

Cross-Examination

By Mr. Macomber:

Q. You stated that in this conversation that you had with this man named Mel at that time that your wife made her exit from the plant that you said something like this to Mel, you said, "It's awful funny that you put her on this job that she didn't know anything about."

Is that right, is that what you said to Mel about that job? A. That's right.

Q. You are this woman's husband, aren't you

A. That's right.

Q. As a matter of fact, she worked on that job, did she not, prior to December 15, 1953?

A. Worked on which job?

Q. That job on the rotary conveyor, worked right on the selfsame job that she was working on the day that she discontinued her employment?

A. She was working on the job that morning.

Q. I'm not talking about that morning. I'm asking you whether it isn't true——

A. You mean before? [127]

Q. Wait until I finish. Prior to December 15, 1953, for some period of time she had worked on that rotary conveyor and was familiar with that job?

(Testimony of James C. Hamilton.)

Mr. Grodsky: I will object, Mr. Examiner.

The Witness: It is not plain to me.

Mr. Grodsky: I object to it. The testimony disclosed there was at least three different types of operations on the rotary conveyor and I would like to have the question directed to a specific operation. There is no job on the rotary conveyor. There is the job of putting the wire on and there is another job of——

Mr. Macomber: We know about that. I'm asking about the selfsame job she was working on this day that she discontinued her employment on February 10. Hadn't she worked on that same job that same operation for some period of time prior to December 15, 1953?

The Witness: Do you mean before that she was put on there?

Q. (By Mr. Macomber): Yes, sir, before.

A. No, she worked on the taper, on that conveyor as a taper.

Q. Let me get this straight, then. If I understand you correctly, she had not worked on the conveyor belt work at any time prior to December 15, 1953?

A. She had——

Mr. Grodsky: I will object. [128]

Trial Examiner: Just a moment. I will sustain the objection as to the form of the question in the light of the testimony up to this point with respect to the operations performed on the rotary conveyor cable and the witness' last answer.

Q. (By Mr. Macomber): Let me ask you this

(Testimony of James C. Hamilton.)

question, I will ask you generally whether she had worked on the conveyor belt. I will get to the particular job. We got to take this step by step, apparently, with this witness.

Had she, prior to December 15, 1953, worked on the rotary conveyor at all? A. Yes.

Q. All right. For how long did she work on the rotary conveyor doing any one of the numerous jobs whether different or not, do you know?

A. I couldn't tell you exactly how long.

Q. I don't want you to tell me exactly. If you can't tell exactly, can you give some reasonable estimate?

A. Until they got ready to take her off again.

Q. Had she worked there a month?

A. I would say maybe.

Q. Now, had she at any time prior to December 15, 1953, worked the same job, that is the same operation on the rotary conveyor that she was working on on February 10, 1954?

Mr. Grodsky: I will object to that question, Mr. [129] Examiner, on the ground the testimony discloses three rotary conveyors. If he means specifically the big rotary conveyor, I have no objection. But in view of the ambiguity that there are three conveyors of three different sizes, I think that the question ought to be clarified.

Trial Examiner: I will sustain the objection.

Mr. Macomber: I don't know how I can make that clearer.

Q. (By Mr. Macomber): Did she work on the

(Testimony of James C. Hamilton.)

same, whether three or four of them, did she work on the same one of the three, on the same job of the three prior to December 15, 1953, that she was working on the day of February 10, 1954?

A. Well, I will answer that this way, I will say no.

Q. You say no?

A. I say the only thing she did was taping.

Q. The only thing she did on the rotary conveyor prior to that date was taping, is that right?

A. Yes.

Mr. Grodsky: Counsel, we are talking about the big conveyor?

Mr. Macomber: That's what I'm talking about.

Trial Examiner: Do you so understand?

The Witness: Yes, sir.

Q. (By Mr. Macomber): Now, how do you designate the particular operation that she was engaged on in connection with this rotary taper on February 10? [130]

Mr. Grodsky: I will object to that, Mr. Examiner. We have had trouble in describing this job. We have had the man who was in charge of the plant and he didn't give us any specific designation for that work operation. How would this witness be able to describe it?

Mr. Macomber: He might be able to describe it. If he has got in mind some idea, if he can describe it, let him describe it. If he can't, let him say he can't.

Trial Examiner: As I understand the testimony

(Testimony of James C. Hamilton.)

up to this point, from all I can gather from the work on the rotary conveyor table, it involves three distinct types of work. One, the insertion of wires on a jig, two, the application of a plastic coating to the wires on the jig, three, the lifting of the completed harness from the jig and its placement on the overhead conveyor belt.

Mr. Grodsky: Correct.

Trial Examiner: Now, if there was a conventional designation used in the plant to describe those particular operations and the witness knows it, I think we may have it. Go ahead.

Would you read the question back, please?

(The following question was read: "Q. Now, how do you designate the particular operation that she was engaged on in connection with this rotary taper on February 10?")

The Witness: Take harnesses off the big conveyor. [131]

Q. (By Mr. Macomber): Now, my question, had she ever done that before, to your knowledge?

A. To my knowledge, no.

Q. Have you had any discussion with your wife at all relative to this situation prior to the time she left the rotary conveyor table on February 10, that is, on the morning within an hour, say, before she left the rotary conveyor, did you talk to her about leaving?

A. Did I talk to my wife about leaving?

Q. Yes, sir. A. No.

(Testimony of James C. Hamilton.)

Q. You had no discussions with her at all prior to that? A. No.

Q. Where is your job, or where was it on February 10 with relation to her job?

A. Well, I sealed boxes up.

Q. Well, how far was your job located from hers?

A. I'd say about, well, I was right close to the end of the overhead conveyor which I'd say is 180 feet from where she was at.

Q. Did you know when she went on the rotary conveyor that morning, or when she was transferred to the job?

A. I seen when they came and got her and took her down there.

Q. I see. Now, you told us that you saw a man named Sienco passing out buttons at some time other than a break [132] period. Can you tell me approximately when that was?

A. At the break period between 2:30 and 3:00 o'clock.

Q. When with relation to February 10, 1954?

A. Was he passing them out on February 10?

Q. When did you see him with relation to February 10, 1954?

A. When he first started passing out buttons.

Q. Would that have been in January, would it have been in February?

A. Around February 1, I guess.

Q. He is the business agent for the IAM, you recognized him as such, did you not?

(Testimony of James C. Hamilton.)

A. That's right.

Q. He was not an employee or foreman or in any way connected with the Essex Wire Corporation so far as you know? A. As far as I know, no.

Q. How long did you see him about the plant on that occasion?

A. Well, in fact, he was there until the time we got off from work.

Q. You told us that on one occasion you were closeted with Mr. Simon and, I believe, someone else here and Mr. Simon told you that if a witness was obtained to substantiate Goldie Riggins that he might have to let you go, is that right?

A. That's right.

Q. As a matter of fact, no grievance was thereafter filed [133] against you, was there?

A. No, it wasn't filed.

Q. And so far as you know, no complaint was filed at that time? A. No, sir.

Q. Or at any time? A. No, sir.

Q. Isn't that right?

A. Except that one morning when she took me in the office.

Q. That was the only complaint that was made and was made to Mr. Simon. Now, as I understand it, the first conversation you had with Simon, Mr. Simon, was preceded by some discussion that you had with Goldie Riggins, regarding Jean, is that right? A. Yes, sir.

Q. And Goldie Riggins had told you that Jean

(Testimony of James C. Hamilton.)

had told her that you threatened to strike Jean, is that right? A. Yes, sir.

Q. And it was following that accusation that you and Goldie all went into Mr. Simon's office, is that correct?

A. It wasn't in his office. It was in my foreman's office.

Q. In your foreman's office? A. Yes.

Q. Who was present, if anyone, besides yourself, Goldie and Mr. Simon? [134] A. That is all.

Q. Just the three of you?

A. Just the three of us.

Q. And that was the time that Mr. Simon told you that if Jean could get a witness to corroborate that you had threatened to slap her that he would have to fire you? A. That's right.

Q. Can you tell us what further conversation you had with Mr. Simon on that particular occasion.

A. Well, now, I believe on one occasion in there when Mr. Simon was talking, he said, "You put yourself in my place and you had 100 girls working for you and if they didn't want to work around one party and all sat down to strike until that one party was out," he said, "if you was in my place, what would you do?"

Q. What did you say in response to that?

A. I told him I guess I would have to do about the same thing that he would have to do.

Q. Did you have any further conversation with him at that time?

(Testimony of James C. Hamilton.)

A. We talked on but I don't remember what else.

Q. Did he tell you something like this that he wanted to keep peace in his plant and it would be all right for you to wear a button so long as you didn't campaign on company time? [135]

A. About the button deal, I don't remember.

Q. Mr. Simon did not tell you that you couldn't under any circumstances wear a button, did he?

A. He told me as long as I was in that plant, but about the button, he told me to take that button off so I took the button off.

Q. You took it off in his presence but thereafter put it on? A. Yes, on the 10th.

Q. That is, you went back and put it on and wore it, did you not? A. Yes, sir.

Mr. Grodsky: I will object to that, Mr. Examiner. The witness didn't understand the question as meaning on the same day.

Trial Examiner: I think the record will so show. If it needs to be explored you may do so.

Mr. Grodsky: May I get the witness' last answer?

(The answer was read.)

Q. (By Mr. Macomber): Let me ask you this question then: I'm addressing my questions to this conversation that you had with Mr. Simon in the presence of Goldie in the foreman's office. When was that with relation to February 10?

A. That was before February 10.

(Testimony of James C. Hamilton.)

Q. How much before February 10? [136]

A. That was on the 8th.

Q. That would have been two days before then?

A. That's right.

Q. Did you work on the 9th?

A. Work on the 9th?

Q. Yes, sir. A. Yes, I worked on the 9th.

Q. Did you wear your badge on the 9th?

A. No, I didn't wear it.

Q. Did you see any other badges being worn on the 9th? A. Yes.

Q. What badges did you see worn on the 9th?

A. I seen the IAM's and, also, the UMWA.

Q. Both badges worn on the 9th all through the day, is that right?

A. Not all through the day, just on occasions they put the UMWA badge on and then they would take them off. They would put them on and take them off and just back and forth with the Mine Workers' button.

Q. Why didn't you put your button on on the 9th?

A. Because I had had orders to take my badge off and leave it off.

Q. You put it on on the 10th, didn't you?

A. That's right. I checked with Mr. Sabatino that night and he said it was all right if I wore my badge, that they [137] could not fire me for it. So the next morning I went in and had my badge on.

Q. Now, on the morning that your wife terminated, at approximately what time was it that you

(Testimony of James C. Hamilton.)

saw her with Mel Kresin? A. What time?

Q. At approximately what time?

A. At the break period, 10:00 o'clock break period.

Q. Where was she with relation to the rotary conveyor upon which she had been working, if you know?

A. I'd say about as far as from here to the chair which I say is about 10, 15 feet.

Q. And who was present, if anyone, besides Mel, your wife and yourself? A. That is all.

Q. That's right.

A. The three of us standing there.

Q. Now at that time do I understand that there was some discussion about your wife going to see the nurse? A. That's right.

Q. And was it Mel who mentioned that she go and see the nurse?

A. Yes, he asked her, he said, "Have you been to see the nurse?"

And she said, "Mel, what's wrong with me, the nurse [138] cannot help me."

Q. That is it exactly what she said, "What is wrong with me the nurse cannot help"?

A. That's right.

Q. You clearly remember your wife making that statement? A. That's right.

Q. She did not complain of any illness to you or Mel at that time? A. In my presence, no.

Q. You heard her say nothing to either Mel or

(Testimony of James C. Hamilton.)

the nurse about being sick at that time before she went off the premises that day?

A. No, I didn't.

Q. Now, did she say anything further to Mel at that time other than, "What is wrong with me the nurse cannot help"?

A. You mean did she say anything else?

Q. Did she say anything else at all to him about why she was leaving?

A. Why she was leaving, no.

Q. Your answer is no?

A. She just asked for a slip to go home and which I told you that a while ago. Other than her saying anything else was wrong, no.

Q. It is customary, is it not, and it's a rule of the plant that one is ill or complains of illness or any [139] indisposition that they go to the nurse before being excused, is that not correct?

Mr. Grodsky: Mr. Examiner, I don't see how—I will stipulate if counsel tells me there is such a rule, I will stipulate that there is such a rule. I don't see how that is in issue here. He testified that she said in his presence, "What is wrong with me the nurse can't help." She just asked for a note to go home.

Trial Examiner: Well, I will permit the examination. Go ahead, Mr. Macomber.

Mr. Macomber: What was my last question?

Trial Examiner: Read the question, please.

(The question was read.)

(Testimony of James C. Hamilton.)

Q. (By Mr. Macomber): That is probably awkward, but you get the sense of it?

A. As far as I can say, I don't know because when I had to go home, you didn't have to have no pass and I didn't have to get a pass.

Q. Do you know whether your wife on occasions prior to the date in question got passes to leave the plant?

A. She probably did. I can't recall.

Q. You know of your own knowledge, don't you, that when an employee, at least a female employee, wanted to go for any reason, wanted to go home, she would have to report to the foreman that she was leaving and get a pass? [140]

A. No, I didn't know.

Q. Did you know or did you not know that an employee, if an employee left their job because of claimed illness that they were to seek a pass from the foreman to first go and see the nurse?

A. Will you repeat part of that, please?

Mr. Macomber: Will you read the question, please?

(The question was read.)

The Witness: I believe that has just been handed down, not within the last week or two, about, say, I don't know for sure, just by hearsay, that is all I can say.

Q. (By Mr. Macomber): Are you familiar, were you familiar prior to February 10 with a company rule reading as follows: "An employee leaving the premises of the company other than at the

(Testimony of James C. Hamilton.)

regular quitting times must secure a pass from the foreman and turn it into the personnel office?"

A. By the company, no.

Q. Are you familiar with company rules being posted on the bulletin board?

A. I don't keep up with them too much.

Q. Do you read the bulletin board?

A. Once in a great while.

Q. In any event, if I understand your answer correctly, you are not aware of the existence of any company rules posted or unposted, prior to February 10, 1954? [141]

Mr. Grodsky: I will object to that question, Mr. Examiner, as going beyond the scope of any previous examination. Does counsel mean a rule with reference to leaving or does he mean any company rule with reference to any subject?

Mr. Macomber: I'm asking him—he's answered my specific question. I'm asking now about whether he is familiar with the publication of the company rules at all.

Trial Examiner: Objection overruled.

The Witness: I will say by hearsay.

Q. (By Mr. Macomber): Only by hearsay, but you never undertook, yourself, as an employee to find out what those rules are, is that right?

A. No.

Q. And if they had been or are posted on the bulletin board, you haven't taken occasion to familiarize yourself with them? A. No.

(Testimony of James C. Hamilton.)

Q. Nor has your union apprised you of the contents of the company rules?

Mr. Grodsky: I will object to that, Mr. Examiner.

Mr. Macomber: That may be a little far afield. I'm talking about the United Mine Workers, but I will withdraw the question.

Trial Examiner: Very well. [142]

Q. (By Mr. Macomber): Did you ever have occasion at any time—withdraw that.

Do I understand from your previous answer that you gave me that when you left the plant you just went. That is all there was to it, you didn't bother to get any passes?

A. I will say at one time. Like I say a while ago, by hearsay.

Q. I don't want to know what you say by hearsay. I want to know what the answer to my question is, whether I understand correctly from your testimony that you didn't bother to get any passes when you wanted to leave the factory, you just went?

A. I will answer, I will say at one time, yes.

Q. What do you mean by that?

A. That I did not have to have a pass.

Q. You just went out, that is all.

A. I had permission to go.

Q. Did you ever at any time prior to February 10, 1954, obtain a pass for the purpose of leaving that plant?

A. Yes, I have obtained passes.

Q. How many times?

(Testimony of James C. Hamilton.)

A. That I wouldn't say here lately because I have a different foreman now.

Q. As many as five or six or seven times?

Mr. Grodsky: Are we confining ourselves to prior to [143] February 10?

Mr. Macomber: Any time. I don't care.

Mr. Grodsky: I do care. That is why I'm interested.

Trial Examiner: I think we ought to confine ourselves to prior to February 10, 1954.

Q. (By Mr. Macomber): Prior to February 10?

A. Quite a few times with premission and with a pass.

Q. Then you are familiar with the general procedure which calls for an employee getting a pass from his foreman?

A. Like I say, by hearsay.

Q. You mean you heard through various persons, from what people said that there was such a rule?

A. That's right.

Q. And that is what you mean when you say "like I say by hearsay"?

A. By hearsay.

Q. Nobody came to you and handed you a written document telling you about the rule but you just understood that was the rule from what everybody told you around the plant, is that right?

A. Yes.

Q. And it wasn't customary, was it, for an employee if they wanted to leave their job either because of illness or because of dissatisfaction with the

(Testimony of James C. Hamilton.)

job to just walk off? A. On some, I [144] guess.

Q. What do you mean by that?

A. Some didn't get the pass and some did.

Q. Who are some who did get the pass?

A. That I don't know the names.

Q. Who are some who do not get the pass?

A. Here lately from what I see is some girls, like I say, at some times I didn't get a pass, but here lately I have seen the girls get one being this new rule came in.

Q. I want to learn about this new rule, when did you hear about a new rule?

A. When one just started up here last Thursday.

Q. Where did you hear about the new rule?

A. In the plant.

Q. Did somebody hand you a bulletin announcing a new rule on the bulletin board?

A. No, but it came out from the leadlady and vice president of that union, IAM.

Q. What union? A. IAM.

Q. Who told you about this new rule?

A. Dorothy Randall, for one.

Q. She told you about a new rule?

A. Yes.

Q. What did she tell you about the new rule and when did she tell you about it? [145]

A. She said the rule that came out was that she cannot go into the women's bathroom after five

(Testimony of James C. Hamilton.)

minutes to 4:00 and that at any time in there you can't stop to comb your hair and put lipstick on.

Q. And that is Dorothy Randall that told you? Who is she, a fellow employee or what?

A. She's a packer.

Q. She is a fellow employee, is that right, she is not a forelady or committeewoman or anything of that kind? A. No.

Q. Who else told you about that?

A. Leadlady, I think Helen Greenwood.

Q. Anyone else?

A. Then there's a foreman and I don't know his last name.

Q. Do you know whether your wife ever had occasion to discuss with you the grievance procedure which the union had with the Essex Wire Corporation?

Mr. Grodsky: Object, Mr. Examiner, beyond the scope of direct examination. I don't see what relevancy that has to this proceeding.

Mr. Macomber: I think it has this relevancy—you apparently see my point?

Trial Examiner: No, I don't. I was about to ask——

Mr. Macomber: Well, I was going to say this, I don't know now whether this woman was sick or claims to be sick [146] or whether she was dissatisfied with the nature of the job. I have in mind what appears in the union contract which counsel has put into evidence a grievance procedure for those who apparently are dissatisfied with the con-

(Testimony of James C. Hamilton.)

ditions of their employment and presumably the nature of their job and I'm seeking by this question because this man is, actually, after all, the husband of this lady, to know whether he knows some discussions with her that she was aware of that grievance procedure.

Mr. Grodsky: Assuming she was aware, it's still under the Board's rules it would not be the exclusive remedy even if she didn't want to take advantage of it.

Mr. Macomber: I appreciate that. If there was a violation of law, there would be a violation of law whether or not a grievance was resorted to. But bearing upon the good faith of the individual's concern, their motivation and their good faith, I think that it would certainly have some bearing as to whether or not there was any consideration given to the matter of invoking the grievance procedure which is an integral part of the working arrangement between the Essex Wire Corporation and the union with which she was affiliated and of which she was technically a member, is a member.

The Witness: She was expelled.

Mr. Grodsky: I believe the company knows that she was [147] expelled.

Mr. Macomber: When, with relation——

Trial Examiner: Be that as it may, there is some Board law on the subject of whether or not an individual may allegedly claim a discriminatory grievance may have held against them. For the purposes of the Board's decision in a particular

(Testimony of James C. Hamilton.)

case, the fact that they did not invoke the grievance procedure when the factual situation is such that they would have been compelled to invoke the assistance of the union with which they rated opposition, to the best of my recollection, the Board's law on the subject is that the failure to invoke the assistance of a union when entitled to a grievance procedure is not to be held in any respect against them when, in fact, the situation is such that they would have been called upon to ask the assistance of persons with whom they are in opposition.

Mr. Macomber: Isn't that assuming something in this case which is the subject of inquiry and determination? Here we have admittedly apparently a lady who was a member of the IAM union. She was not a member of the United Mine Workers so far as I'm apprised and a member, apparently, in good standing at the time she, let us say, that is, from the company's point of view, walked off the job.

If there was a dissatisfaction with that job, and conceding that she did not have to exhaust [148] administrative remedy in the technical sense—let's concede that. Still, I think bearing on good faith and motivation there should be considered whether or not as a member in good standing of this union, apparently, she didn't give some consideration to invoking that procedure which was established by the union and the company for the protection in cases just like we have here.

Trial Examiner: The record in this aspect of the case is still to be developed. I'm not going to

(Testimony of James C. Hamilton.)

indulge in an assumption as to what the record may show. I will overrule the objection.

Q. (By Mr. Macomber): As the husband of Mrs. Hamilton, I assume that shortly after that incident of February 10, you had occasion to discuss the problem with her, did you not? I'm being most general in my question. I say on the problem of leaving the job, you had a discussion about that with her?

Mr. Grodsky: Before the witness answers, I wish to raise an objection based on the fact that this is a confidential communication between husband and wife.

Mr. Macomber: I think that only the husband and wife can invoke that confidential relationship and if they want to invoke it, why, I will certainly honor it without trying to press the matter but I don't think it is a privilege which counsel can [149] assert.

Trial Examiner: Objection overruled.

Q. (By Mr. Macomber): Did you have any such confidential relation with your wife regarding the subject that you didn't want to answer the question as to whether you and your wife discussed the problem after she left the job on February 10?

A. We have talked about it.

Q. Shortly thereafter, was any consideration given by your wife in these discussions she had with you as to invoking the grievance procedure of her union clause?

A. Not with the IAM, no.

(Testimony of James C. Hamilton.)

Q. Do you know how long after February 10, it was before she went down to see Mr. Sabatino?

A. Not the same day.

Q. About a day?

A. About a day or two days.

Mr. Macomber: When does the record disclose that she filed her complaint initially? May I inquire, counsel?

Trial Examiner: February 12.

Mr. Macomber: February 12 was the date and where was that complaint filed, here or is that the date of receipt in Los Angeles?

Mr. Grodsky: The charge was filed in Los Angeles. The charging party went to Los Angeles and filed the charge.

Mr. Macomber: She went to Los Angeles. [150]

Q. (By Mr. Macomber): Did you urge her to go to Los Angeles?

Mr. Grodsky: I will object to that, Mr. Examiner. This is very collateral.

Trial Examiner: What is the materiality of this?

Mr. Macomber: It's the same materiality as I previously indicated. I want to show that so soon, now, here is the 10th that she walks off the job or goes off the job. I realize the circumstances under which she left is the subject of dispute. At least, she goes off the job, presumably, has a complaint and if it's a good faith complaint, we are raising the question of having the knowledge of grievance procedure and we are going to show that he had

(Testimony of James C. Hamilton.)

knowledge of the grievance procedure. He filed and reverted to grievance procedure a couple times.

The Witness: One time.

Q. (By Mr. Macomber): The witness says "one time." You were aware of grievance procedure?

A. I filed a grievance one time.

Mr. Macomber: For him to walk right down and file a complaint, I think bears upon the motivation, bears upon the good faith of the complaint. It shows a pattern of organizational activity on the part of this United Mine Workers to try in some way or other to stir up some difficulty there in the plant. [151]

It must be perfectly obvious that that is what we have got to assume as having taken place here.

Trial Examiner: I think I have heard enough to get the drift of respondent's argument.

Mr. Macomber: Surely.

Trial Examiner: And I have permitted the examination with respect to the discussion, if any, in regard to grievance procedure and the consideration, if any, given to the invocation of grievance procedure because of the fact that the record with respect to whether or not it could reasonably have been resorted to is still deficient and I'm waiting for full development of the record to assess the actual weight given to the witness in that regard.

However, in respect to whether the charge was filed immediately or whether an interval was allowed to lapse or whether filed immediately after

(Testimony of James C. Hamilton.)

consultation with the UMW, I'm going to sustain the objection presented by General Counsel.

Off the record.

(Discussion off the record.)

Trial Examiner: On the record. We will recess for five minutes.

(Short recess taken.)

Trial Examiner: The hearing will be in order.

Q. (By Mr. Macomber): Now, you told us, Mr. Hamilton, [152] on direct examination, that you on or about the time of this incident of February 10 said something like this to Mel: "Why are you picking on Ann?"

And then he denied that he was picking on Ann. Is that right, you made some statement why he was picking on Ann which he promptly denied, is that correct? A. Yes.

Q. And he told you that he was in a position where he couldn't show any partiality at all, is that right? A. That's right.

Q. But you had accused him of picking on Ann. Now, I want to ask you whether that was on the basis of this incident of February 10 that you accused him of picking on Ann?

A. I didn't accuse him of picking on Ann. The statement that I made, I said, "Why is it that every time somebody has to go on another job, why is it Ann has to go."

Q. All right. Now, your wife had worked, I

(Testimony of James C. Hamilton.)

think you told us, on some job on the rotary conveyor some time about December 15, 1953. Thereafter, she worked, did she not, on this taper job?

A. I believe so.

Q. And did she remain on the taper job until February 10, 1954?

A. I can't say for sure.

Q. Do you know any other job that she was called on to [153] perform between December 15, 1953, and February 10, 1954, when she was put over on the rotary conveyor?

A. Within that period, I would say no.

Q. Would you say between the period of December 15, 1953, and February 10, 1954, that she worked continuously on the taper machine?

A. I say except for the time they took her off that time.

Q. And the time they took her off, that time was February 10? A. Yes.

Q. Is that what you mean?

A. Yes, sir.

Q. And she was happy on the taper job, wasn't she, so far as you know? A. Yes, sir.

Q. And before she left on February 10 while yet the nurse and while still the foreman was there, as far as you knew, she was happy with the rotary conveyor job, wasn't she, as far as anything she told you?

A. As far as I know there at the plant, I would say yes.

(Testimony of James C. Hamilton.)

Q. Now, you told us that her hands were all bloody?

A. That's right, they were bleeding.

Q. Were they really bleeding profusely, was blood dripping from her hands?

A. No, wasn't bleeding that bad. [154]

Q. Could you see the blood plainly on her hands?

A. Yes.

Q. Had it gotten messy on her hands so that you could see it very clearly?

A. Not that messy.

Q. Did you speak to the nurse about taking care of those hands? A. No, I didn't.

Q. She was right there, wasn't she?

A. Yes.

Q. And you didn't say anything to the nurse about taking care of those hands, giving her any first aid? A. Not at the present time.

Q. And you didn't say anything—strike that.

She didn't say anything about not even liking the job at that time to anybody, did she?

A. In my presence, no.

Q. The only thing she said is "What is wrong with me, the nurse can't help?"

A. That's right.

Q. And she never went on to expand on that at that time? A. No, sir.

Q. Whereupon she left the plant, is that right?

A. With permission.

Q. Now you told us in that regard that Mel at first told her [155] that she would have to get a

(Testimony of James C. Hamilton.)

slip or have a slip? A. No.

Q. Mel told her she would first have to see the nurse, did he not?

A. No, he didn't tell her that.

Q. He just said, "You can go"?

A. He said, "You go home and I will fill out the slip for you and turn it in to the nurse myself."

Q. Do you know whether she had any gloves on February 10 issued to her by her foreman?

A. Well, I do know, I guess it was right at the break, or right before the break her committee-woman, Betty Cave, gave her a pair of gloves.

Q. Betty Cave? A. Yes.

Q. Now, was it after your wife left that you had the next conversation with Mr. Simon at the coffee tables? You told us that at 10:30, February 10, you talked to Simon at the coffee table. Was that before or after your wife had departed?

A. It was after she had left.

Q. Had your wife at that time told you that she was dissatisfied with the job, or sick, or either one of them at the time that you had this conversation with Mr. Simon? A. No.

Q. So you were at that time totally in the dark as to why [156] your wife left, is that right?

A. That's right, at the time.

Q. Now, you told us about some discussion at that time between yourself and Mr. Simon. Now, isn't this, in fact, what Mr. Simon told you that he was on the spot insofar as there was any organizational or campaign activity going on and that

(Testimony of James C. Hamilton.)

whereas he didn't have any control over whether you wore or didn't wear a button, that you couldn't pass them around between each other and that you couldn't engage in any membership campaigning. Now, isn't that in substance what he told you?

A. To my memory, it is not.

Q. You say to your memory it is not. Is there some doubt about your memory?

A. No doubt. The one time he told me to take the button off.

Q. At one time, but you only concede at one time. You are not sure he told you on two occasions to take them off?

A. Both times.

Q. Did you tell him that your union boss or union leader, Mr. Sabatino, whatever his name is, had told you it was lawful?

A. No, I didn't mention it.

Mr. Macomber: I think that is all.

Redirect Examination

By Mr. Grodsky:

Q. On February 10, the day that your [157] wife left the plant, was there any time before she left the plant when you and she and the nurse were together?

A. No.

Q. The only time where you were present when the nurse was present was at the time after Ann had left, isn't that correct?

A. That's right.

Q. Now you testified that you had asked Mr. Kresin why they always selected Ann when they

(Testimony of James C. Hamilton.)

had to take someone off the tapers, is that what you asked him? A. Yes.

Q. Did you have in mind any earlier occasions before December, when she had been taken away from her job?

A. Yes, I guess four or five times.

Q. When she originally went to work did she go to work on the tapers? A. That's right.

Q. And in between the time that she went to work originally on the taper and the time that you were talking to Mr. Kresin in February, she had been taken off her job at the taper on a number of occasions, is that correct? A. Yes.

Q. That is what you had in mind when you were talking to him? A. Yes. [158]

* * *

Mr. Macomber: Just one question.

Do you remember a conversation with Mr. Simon in which he spoke to you about the use of the phone and receiving personal calls on company time?

The Witness: I do.

Mr. Macomber: When was that conversation with Mr. Simon with relation to February 10?

The Witness: I believe right before I went in the rest room I had received a call at the phone and Mr. Simon and Fred was standing over there by the coke machine, I believe, I think that is where they were standing.

Trial Examiner: By what machine?

The Witness: The coke machine. And that is

(Testimony of James C. Hamilton.)

when he said that if I had a call come in it would have to come through the office.

Mr. Macomber: That is all.

Q. (By Mr. Grodsky): Did I understand that that conversation with Mr. Simon was on the same date that Ann was discharged, on February 10?

A. I believe it was.

Q. Was that the same conversation that you were telling us before, that is, does this conversation about using the telephone in the same conversation in which he asked you why you were coming from the bathroom? A. It was. [159]

Mr. Macomber: Had you been in the habit of making calls without getting prior permission?

The Witness: No, sir. Every time I made a phone call it was either on my own time or I would get permission from my foreman.

Mr. Macomber: What do you consider your own time in answering that question?

The Witness: Well, break period, either at lunch time or before I started to work.

* * *

Mr. Macomber: I would like to call Mr. Simon.

Trial Examiner: On the basis of the understanding reached off the record, it is my understanding at the present time that General Counsel has no objection to respondent calling Mr. Simon out of order for the purpose of presenting what will be a part of respondent's direct case.

Mr. Grodsky: That is correct. [160]

MITCHELL J. SIMON

a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Macomber:

Q. You are Mr. Simon who previously was sworn and testified in this matter, of course?

A. Right.

Q. I have briefly exhibited to General Counsel and I now hand you a document entitled "Essex Wire Policies, Rules and Regulations" and I will ask you what these rules and regulations purport to be.

A. These are standard rules and regulations adopted for all assembly divisions and modified for particular localities.

Q. Are those the rules and regulations that were enforced by the Essex Wire division here in California?

A. They have been enforced since the start of operations in San Diego.

Q. That is approximately when?

A. Well, I can say since September, 1948, because that is when I came out here.

Q. What publicity has been given to the existence of those rules and regulations, will you tell us, generally?

A. These rules and regulations have been handed to the union on each, at each negotiating session.

(Testimony of Mitchell J. Simon.)

They were posted [161] on the bulletin board and the walls in the plant. They were subsequently taken down after they had become tarnished and dust ridden and so on.

At the last negotiation, the union then requested a review of the company rules and regulations and asked us if we would not consider when we are printing our agreement if we wouldn't take a section of that little booklet that we have used previously and put that in there because it would be more convenient rather than having to answer the questions from that particular sheet.

We had them posted and they have copies of same and have had since 1948.

Mr. Macomber: I will offer these as respondent's first exhibit.

The Witness: Also, I might add, Mr. Macomber, that we have copies of these rules as corporate policy dating back, I believe, somewhere in 1937.

Q. (By Mr. Macomber): I want to call your attention——

Mr. Grodsky: They have been offered?

Trial Examiner: Yes, they have been offered. Is there any objection?

Mr. Grodsky: Yes, I would like to have the witness on voir dire on them. Although, if you will reserve your offer until after you begin examining the witness, I have no objections to that. [162]

Mr. Macomber: Well, I was going to offer them. I thought it would be more timely with the ques-

(Testimony of Mitchell J. Simon.)

tion I was about to propound after I offered the document.

You have an objection to this?

Mr. Grodsky: Yes.

Mr. Macomber: But I understood that we——

Mr. Grodsky: I just want to ask the witness some questions as to the promulgation.

Trial Examiner: Very well. You may have the witness on voir dire.

Voir Dire Examination

By Mr. Grodsky:

Q. Mr. Simon, have these rules ever been changed and, by that, I mean the text of any one of those rules, has it ever been changed since you have been at the plant? A. No, sir.

Q. Have those rules been posted—strike that.

When was the last time, to your knowledge, that the rules have been posted?

A. At the beginning of the last contract period. That is not the contract that we signed with the existing union in June or thereabouts. They were given, copies were given to the union and they were posted at that time and subsequently are on file at any time any employee wanted a copy of it.

Q. In other words, the contract that you have in mind is a [163] contract that is dated January 15, 1954, is that correct?

A. That is the last time we put them upon the board, that is correct.

(Testimony of Mitchell J. Simon.)

Q. That is the last time you put them up on the board. How long did they stay up on the board at that time?

A. Well, the copy was up on the board, was taken down prior to negotiations of this new contract which was signed in June.

Mr. Macomber: June of this year?

The Witness: That's right, and we started negotiating that contract 60 days prior to its expiration date which was May 15.

Q. (By Mr. Grodsky): Mr. Simon, do I understand correctly that was posted from January 15, 1953, until approximately 60 days before May 15, of 1954?

A. When you say that, what are you speaking of, the same piece of material?

Q. I'm talking about the rules that, the company rules, I don't mean that specific one, but I mean a copy, a full copy of the company rules was continuously posted during that period of time?

A. Yes, to my knowledge.

Q. Where was that posted?

A. On the bulletin board where we post our hours and wages and so on specified by government regulations.

Q. Somebody was testifying here about a bulletin board that [164] is under glass, is that the same one?

A. No, sir.

Q. Mr. Simon, isn't it a fact that that was posted on the bulletin board after February 10, of 1954?

(Testimony of Mitchell J. Simon.)

A. No, sir, this was being reviewed during negotiations and this one as yet is not out and won't be out until it comes back from the printers. It was reviewed at the negotiating time with the negotiating committee. They raised some objections to some of the rules and we reviewed it and it will be issued as soon as the copies of the contract are back from the printers.

Q. Mr. Simon, do I take it, then, that these are not the rules that are in effect, these are changed rules now? A. No.

Mr. Macomber. He doesn't say that.

The Witness: They were reviewed.

Mr. Macomber: He said they had been changed since recent negotiations. He said that was 60 days before the expiration.

Trial Examiner: Just a moment, Mr. Macomber. Mr. Simon, I'm in some confusion now because of the way the record has developed. We have a particular document which is seven pages long now offered in evidence as Respondent Company's No. 1. Now, that document, seven pages all clipped together, does that reflect the rules as they were in effect on January 15, 1953, and thereafter until May 15, 1954, or does that [165] particular document now before Mr. Macomber reflect the rules as they now stand or is there any difference?

The Witness: The rules are the same. There's been a word or two changed. It is identically the same rules set forth in company policy. That is corporation policy and modified to fit the local plant.

(Testimony of Mitchell J. Simon.)

Now, wherever a particular item referred to, for instance, badges, we don't have badges, we have passes. So we changed the word "badges" to "passes." I mean the rule itself has not been changed.

Mr. Macomber: See if I understand you correctly, these rules that are embodied in this document which is offered in evidence are the rules that were in force and effect up until here quite recently when you went into further negotiations with the union and changed a few words here and there?

The Witness: That is correct.

Mr. Macomber: And this is the document to which you referred had been on the bulletin board, posted until 60 days prior to the last negotiating period?

The Witness: The rules are the same.

Mr. Macomber: Does that answer it?

Mr. Grodsky: No, it doesn't. He keeps saying the rules are the same. I want him to say the document is the same.

Mr. Macomber: The document is the same. It may have been brown paper, green paper, we don't know.

Trial Examiner: I see the point Mr. Grodsky is driving at. [166]

If I understand correctly, Mr. Simon, General Counsel's Exhibit 1 for identification is not a verbatim copy of the rules and regulations that were posted according to your recollection after January 15, 1953?

(Testimony of Mitchell J. Simon.)

The Witness: That is correct.

Trial Examiner: But it is your testimony that the substance of the document, General Counsel's 1 for identification, is the same as the substance of the document that was posted since the only changes between General Counsel's 1 and the document actually posted relates to certain words which did not change the sense of any rule?

The Witness: That is correct, sir.

Mr. Macomber: That is Respondent's 1.

Trial Examiner: I'm sorry, Respondent's 1.

Q. (By Mr. Grodsky): Just a minute. Is it your testimony, Mr. Simon, that before February 15, of 1954, a document similar to that may be differing in one or two words, as you say, was posted and was on display for the employees to see at the bulletin board about which you have testified? A. Yes, sir.

Q. And that bulletin board is just outside of Mr. Harms' office? A. No, sir.

Q. Where is that bulletin board located?

A. Located in the main aisle past the timeclock as you are [167] leaving the plant and located, I would say, just about five feet east of the bulletin board which I referred to with the glass cover. The same of which has been given to the union, as I stated, at every negotiating session and the same of which is on file in the personnel department available to anybody by their request.

Q. How many clocks do you have there, time-

(Testimony of Mitchell J. Simon.)

clocks? Do you have them designated Clock No. 1 and Clock No. 27?

A. We have three clocks.

Q. Do they have designations; Clock No. 1, Clock No. 2, and No. 3? A. No.

Q. Have you ever heard the employees refer to any specific clock as Clock No. 1? A. No.

Q. Or any of the foremen refer to any clock as Clock No. 1? A. No, I haven't.

Mr. Grodsky: I have no further questions on this, Mr. Examiner.

Mr. Macomber: I renew my offer.

Trial Examiner: Is there any objections to the offer?

Mr. Grodsky: Yes, I object to the offer because this demonstrably is not the document that was posted. He says it's like the document. I say it's not. I say that either we have the document that was posted or we don't have the document [168] that was posted.

Mr. Macomber: I don't know that I ever heard of such an objection. I don't know whether it is the best evidence or what he is invoking but the testimony is that a document, as I understand it, substantially of identical form as that was posted. Is counsel insisting that we go out and get the time-worn particular document that happened to be stuck on the wall that may have been pulled down and long destroyed with testimony that an exact copy of this and others were posted?

I submit that for our purpose this is adequate

(Testimony of Mitchell J. Simon.)

foundation for the admission of this document, Mr. Examiner.

Trial Examiner: On the basis of the testimony, I'm going to rule that the document offered for identification as Respondent's No. 1 is sufficiently illustrative of the document that actually was posted to be received in evidence for whatever value it may have. I will overrule the objection and receive Respondent's No. 1.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 1 and was received in evidence.)

RESPONDENT'S EXHIBIT No. 1

Essex Wire Policies Rules and Regulations

* * *

Rules of Conduct

The following are legitimate cause for immediate discharge:

* * *

16. The circulation of petitions for any purpose whatsoever on Company property without prior approval by the Company.

* * *

(Testimony of Mitchell J. Simon.)

Rest Periods

Female and male employees shall have two ten (10) minute rest periods with pay for each seven and one-half (7½) or eight (8) hour shift at stated times consistent with production.

* * *

Received in evidence August 2, 1954.

Trial Examiner: However, before Mr. Simon leaves the stand I have only one question that I'd like to ask in that regard. Your testimony, as I understand this, was posted on the bulletin board not covered by a glass cover?

The Witness: Yes, sir.

Trial Examiner: And you have previously referred to the [169] fact that the document consisted of seven pages. Was it posted in the form in which it now appears, that is, with the pages stapled together or was it posted with each page separately open to view?

The Witness: Just as it is, sir, pinned in the corner and you would have to thumb through it.

Direct Examination (Continued)

By Mr. Macomber:

Q. Was just one or more than one posted?

A. Just one.

(Testimony of Mitchell J. Simon.)

Q. Just one. Was any other publicity given to the existence of these rules and regulations other than posting it on the board?

A. Our contract refers to the rules and regulations.

Q. You work with the union and copies of these were given to the union, is that correct?

A. That's right.

Q. I call your attention now to a part of the document under the designation "Passes" in which the following appears: "An employee leaving the premises of the company other than at the regular quitting times must secure a pass from the foreman and turn it in to the personnel office."

What general publicity was given to the existence of that provision of the rules and regulations other than the posting of a document similar to this on the bulletin board?

A. Procedure and habit by the foremen and employees. [170]

Q. Tell us more particularly about that.

A. Well, anybody who leaves the job and even if they want to go during working hours, the rule is that if they want to go to the First Aid, they get a pass from the foreman, take it to First Aid. After they leave, bring the pass back to the foreman and in case of emergency, they don't do it, it is waived. That is part of our rules and regulations.

Q. How is that impressed upon employees when they start working?

(Testimony of Mitchell J. Simon.)

A. They just can't walk off the job. That is all there is to it.

Q. I know, you say that but what we are trying to get is what is done to impress that, more particularly in the case of Ann.

In the case of Ann Hamilton back there, she had obtained prior to February 10 on several occasions passes, had she not?

A. That is correct, but copies of which were in the personnel file.

Q. And is there a foreman to instruct them of the existence of this rule or not?

A. Absolutely. Otherwise, all of the people would go off the job at the same time. You couldn't run a business that way.

Mr. Macomber: I offer this document.

Trial Examiner: Very well. I have already received it. [171]

Anything further of Mr. Simon?

Mr. Grodsky: Yes.

Cross-Examination

By Mr. Grodsky:

Q. Mr. Simon, do you know of your own knowledge whether the foremen in their discretion permitted employees to leave and told them that they would fill out the necessary passes for them—if they are working contrary to rules?

A. It's not company policy.

Q. The question is whether you know whether that has happened.

(Testimony of Mitchell J. Simon.)

A. No, sir, not to my knowledge.

Q. Then, I take it, that to your knowledge no employee has ever left the plant without a pass being filled out in advance?

A. Not until or unless it was a case of extreme emergency which I stated the rule was waived.

Q. Does the rule say something about waiving the pass rule?

Mr. Macomber: It says that in case of extreme emergency passes must be obtained except in the case of extreme emergency, words to that effect.

Trial Examiner: If it is material, I will state for the record that on Page 1 of the document received in evidence as Respondent's 1, there appears under the general caption "First Aid Service," a second paragraph dealing with the [172] pass requirement in cases involving reference to the First Aid Room and at the end of that second paragraph the last sentence on the page reads, "This provision may be waived in cases of extreme emergency."

I will also state for the record that on Page 4 of the document at the top of the page under the general subheading, "Passes" in the case of employees leaving the premises of the company and at no point under that general subheading on Page 4 do I find a reference to emergency situations.

Q. (By Mr. Grodsky): Then it's your testimony that to your knowledge no foreman has ever authorized any employees to leave the plant without having had a pass in advance?

(Testimony of Mitchell J. Simon.)

A. That's right.

Mr. Grodsky: No further questions.

Trial Examiner: You may be excused.

(Witness excused.)

Trial Examiner: At this time pursuant to the understanding, we will recess the hearing until tomorrow morning at 9:30 a.m. at the same place.

(Whereupon, at 4:40 o'clock p.m., Monday, August 2, 1954, the hearing adjourned until Tuesday, August 3, 1954, at 9:30 o'clock [173] a.m.)

PROCEEDINGS

Trial Examiner Miller: The hearing will be in order.

Mr. Macomber: Mr. Examiner, may I have your indulgence for just a moment?

Trial Examiner: Surely.

Mr. Macomber: Mr. Simon seems to have located the original document posted on the bulletin board which is General Counsel's No. 2 in evidence and which has been the subject of some uncertainty in the testimony and it occurred to me that now would be the logical time very briefly, even if out of order, to present this bulletin. It would take only a minute with Mr. Simon even though somewhat out of order.

Mr. Grodsky: I'm very agreeable with that.

MITCHELL J. SIMON

a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Macomber:

Q. Mr. Simon, did you last night in some manner or other among your files find the original posted bulletin which is General Counsel's No. 2 in evidence? A. I did.

Q. And do I now hand you that bulletin?

A. This is the same bulletin that was posted on the [177] bulletin board under the glass referred to in yesterday's testimony.

Q. I notice in the top left-hand corner is written "Post and return 1-14-54."

Whose handwriting is that and what is the significance of that?

A. That is my handwriting and I wanted to be sure I got the copy back. One went to the legal department in Detroit and the other I retained in my file.

Q. Up in the left-hand corner there seems to be a pin prick hole of some kind or other and an indentation encircling that perforation.

What does that indicate?

A. That is where it was tacked up on the bulletin board.

Q. Is that the one under the glass?

A. That is the one under the glass.

(Testimony of Mitchell J. Simon.)

Mr. Macomber: I offer this as Respondent's No. 2. I don't believe counsel has seen it yet.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

As a result of the discussion off the record, at my suggestion, it appears that counsel is satisfied that the document just presented to Mr. Simon and identified by him is an exact copy in every particular except those indicated [178] in his testimony just offered of the document already received in evidence as General Counsel's 2 and since it is exactly similar in every respect except for the perforations, or perforation, noted at the top of the page and the pencil notation referred to by Mr. Simon, it was my suggestion it might obviate any necessity for receipt in evidence as an independent exhibit if counsel will stipulate it might be physically substituted for the document already received in evidence as General Counsel's 2.

It is my understanding counsel will so stipulate?

Mr. Grodsky: We will so stipulate.

Trial Examiner: Very well. The document identified by Mr. Simon may be substituted for a document previously received in evidence as General Counsel's 2 and I turn over the document just identified to the reporter.

(Testimony of Mitchell J. Simon.)

Cross-Examination

By Mr. Grodsky:

Q. Mr. Simon, was there any other notice relating to solicitation posted?

A. Not to my knowledge? [179]

* * *

HELEN IRENE GREENWOOD

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. Will you state your name, please?

A. Helen Irene Greenwood.

Q. What is your address, Mrs. Greenwood?

A. 4085 Idaho.

Q. Is that in San Diego? A. Yes.

Q. What is your position with Essex Wire Corporation?

A. I'm a leadwoman on the No. 1 conveyor.

Q. Is the No. 1 conveyor also known as the big rotary conveyor? A. Yes. [181]

Q. Did Ann Hamilton work on the big rotary conveyor? A. At her own request, yes.

Q. That was during what dates, if you recall?

A. It was before the holidays. I don't recall the date.

(Testimony of Helen Irene Greenwood.)

Q. And about how long did she work there at that time?

A. Oh, approximately three weeks.

Q. When you say "before the holidays," you mean before Christmas of 1953? A. Yes.

Q. What job or jobs did she have on the conveyor at that time?

A. At that time she was taping.

Q. Did there come a time when she came back to work on the big conveyor?

A. No, she was, she had filled in when I had a girl absent. She wanted to try working on the conveyor but that was before she actually worked on it, I mean, steady. She had requested she'd like to try it.

Q. Now, you are talking about things that happened in 1953?

A. Well, prior to the time that she came on the conveyor, yes.

Q. Did there come a time after Christmas of 1953 when she worked on the conveyor?

A. Well, the day that she left the conveyor.

Q. Well, do you know what date that was? [182]

Mr. Macomber: Well, we can stipulate——

Mr. Grodsky: Can we stipulate that was the same day, counsel, can we stipulate the date is February 10?

Mr. Macomber: February 10 is the date. I think it's beyond dispute.

Q. (By Mr. Grodsky): I will suggest to you, Mrs. Greenwood, that that was on a Wednesday,

(Testimony of Helen Irene Greenwood.)

February 10, of this year. Does that refresh your recollection as to the date it was? A. Yes.

Q. Now, under what circumstances was Ann Hamilton assigned to work on the big conveyor that morning?

A. Well, we needed an experienced girl on the repair table and, also, an experienced girl on the No. 1 conveyor to take this other girl's place.

Q. All right. Now, did you talk to someone about getting the girl? A. In the morning.

Q. Yes. A. Yes, we——

Q. To whom did you talk about getting the girl?

A. To my foreman.

Mr. Macomber: Who is he?

The Witness: Mr. Kresin.

Mr. Macomber: Pardon me for butting in like that.

Mr. Grodsky: It's perfectly all right. [183]

Mr. Macomber: It is easier to get the chronology of the time.

Mr. Grodsky: Right.

Q. (By Mr. Grodsky): About what time of the morning did you talk to Mr. Kresin about that?

A. After the first whistle had blown, he told me that the repair girl was absent and that could I, if I had a girl on the conveyor that could do the repair work and I have two experienced girls that had been on the repair table, Inez Hobbs and Jo Hutchins.

Mr. Macomber: They are repair girls, so-called? They have been on that station?

(Testimony of Helen Irene Greenwood.)

The Witness: Yes.

Mr. Macomber: Thank you.

Q. (By Mr. Grodsky): All right. What did you do, if anything, at the time that he told you that the repair girl was absent?

A. He said he may have to use one of my girls off the conveyor and let it go at that.

Mr. Macomber: When you say "and let it go at that," you mean he said, "Let it go at that"?

The Witness: No, he didn't say anything. That is what had happened.

Mr. Grodsky: Mr. Examiner, I think it would be a little more orderly if I proceeded to examine the witness. [184] I think I can clarify these things as I go along.

Mr. Macomber: All right. I will try to avoid any interruptions.

Q. (By Mr. Grodsky): Did Mr. Kresin talk to you further about this matter during the morning?

A. No.

Q. What was the next thing that you knew about the incidents leading up to Ann Hamilton coming to work on the conveyor?

A. Right before she came down, her leadlady told me she was sending Ann to the conveyor.

Q. And the leadlady is Peggy Redden?

A. Peggy Redden.

Q. All right. What happened then?

A. At the time that Ann came on the conveyor, I was at the other end relieving a wire girl and I

(Testimony of Helen Irene Greenwood.)

motioned for Inez to go to the repair table and for Ann to step in her place.

Q. What was Inez doing at that time?

A. At the time she was on the wire station and Inez went to the repair table and Jo Hutchins left the take-off station and went to the wire station.

Q. Then, in other words, you motioned to Inez to leave the wire station and to go to the repair table? A. Repair table.

Q. And you motioned to Jo to leave the take-off station [185] and go to the wire station?

Trial Examiner: Is that correct, you directed Miss Hutchins to take Inez' place?

The Witness: Yes, when Mr. Kresin told me he may need the repair girl, I had told them that either one of them would have to go so they did know in advance that they would have to leave the conveyor and, if they did, for Jo to take the wire station and for Inez to go to the repair table.

Trial Examiner: You are referring to a conversation you had with the two girls after the original conversation with Mr. Kresin?

The Witness: Yes.

Trial Examiner: I see. Go ahead. Just a moment. If I may interrupt for just a moment, Mr. Grodsky:

Just to get clear in my own mind what is meant here by your reference to wire station and take-off station, we have had testimony here that one of the jobs done on the conveyor table is the job of placing these wires in position on a jig?

(Testimony of Helen Irene Greenwood.)

The Witness: That is a wire station.

Trial Examiner: We have had testimony that one of the jobs on the conveyor table is taking the completed assembly, or harness, off of the jig after the plastic tape has been added to it and placing on an overhead conveyor hook. Is that what you refer to as take-off station? [186]

The Witness: That is take-off.

Trial Examiner: At the time Mrs. Hamilton reported Miss Hobbs was on the wire station and Hutchins on the take-off station?

The Witness: Yes.

Q. (By Mr. Grodsky): Do you know who the repair girl is? A. Now?

Q. No, who the repair girl was at that time?

A. If I'm not—no, it wasn't. No, I don't recall.

Q. Was there a girl by the name of Frances who was repair girl?

A. For about two weeks. That has just been here recently. She is not there now.

Q. I'm talking about in February specifically, in the period of approximately February 10?

A. I don't recall who was there.

Q. Were you instructed by Mr. Kresin as to which girls to place in what jobs, I mean as between Inez and Jo and Ann? A. No.

Q. That was a decision which was left up to you in the course of your duties, is that correct?

A. Yes.

Q. Now, were you aware at the time that Ann was a supporter of the Mine Workers Union?

(Testimony of Helen Irene Greenwood.)

A. Yes. [187]

Q. In fact you probably saw her wearing her button, didn't you? A. Yes.

Q. Were you a supporter of the Mine Workers Union? A. No.

Q. Did you and other employees discuss among yourselves the problems created in the plant by the Mine Workers? A. Yes.

Mr. Macomber: I'm not going to object to this except it may be understood any conversations that the employees had among themselves would not be binding upon the Essex Wire Corporation unless one of our representatives or officials were involved.

Trial Examiner: I would assume so.

Mr. Macomber: I want to make that objection so the record will be clear.

Trial Examiner: Yes, I understand your position.

Mr. Grodsky: Will you read the last question and answer, please?

(The question and answer were read.)

Q. (By Mr. Grodsky): Did you in your discussions consider what you would do to help relieve the situation?

A. I don't understand what you mean.

Q. Well, in your discussions with reference to the Mine Workers, did you girls think in terms of what you could do [188] to help relieve the situation?

Mr. Macomber: I'm going to object to the form

(Testimony of Helen Irene Greenwood.)

of that question and I think it calls for hearsay and conclusion and opinion of this witness as to what others may think. If he is asking this witness what she, herself, might have thought, that is another thing. We don't know what discussions or discussion you are talking about.

I think we are entitled to know who participated in discussions and what was said rather than what people thought.

Trial Examiner: I find your objection well taken insofar as the question may elicit the witness' testimony as to what people thought. However, I assume that the question is a preliminary question designed to determine whether or not the witness participated in discussions of particular character.

If the answer is in the affirmative, I will require counsel to establish time, place and persons present.

Mr. Macomber: Very well.

Q. (By Mr. Grodsky): Do you remember the question? A. No, would you repeat it?

Q. Did you girls talk about what you would do?

A. Yes.

Q. With whom did you have such discussions?

A. Oh, with quite a few girls.

Q. Well, did you have any with Peggy Redden, for example? [189] A. Yes.

Q. Do you remember any specific discussion?

A. No, nothing I don't think that would have anything to do with this.

Q. Yes. But, well, what was the gist of your dis-

(Testimony of Helen Irene Greenwood.)

cussions with Peggy Redden relating to the Mine Workers situation?

Mr. Macomber: I think we ought to have time, place and persons present, Mr. Examiner.

Trial Examiner: I'm going to find merit in the point made by Mr. Macomber and suggest that to the extent of the witness' recollection we do fix time and place and persons present.

Q. (By Mr. Grodsky): Can you place a specific date when you had such a discussion?

A. No, because we were discussing from the time we found out that they were trying to get into the plant. It was practically every day discussion about the United Mine Workers.

Q. Who participated in the various discussions?

A. I could name you 15 or 20 girls.

Q. Just name a few of them.

A. I could name every girl on the conveyor at the time.

Q. In other words, all of the girls on the conveyor from time to time participated in these various discussions? A. Yes. [190]

Q. And I gather from that that all the girls on the conveyor were opposed to the Mine Workers effort?

A. Well, I don't know. They discussed it. Now, what their views were, I do not know individually.

Q. What was the tenor of the discussions?

Mr. Macomber: I'm going to object to that as calling for the conclusion and opinions of this witness. She can't tell about any individual discussions

(Testimony of Helen Irene Greenwood.)

and now counsel wants her conclusion as to the general tenor of the discussions. Of course, it's understood I have a running objection to all of this on the grounds of hearsay.

Trial Examiner: Yes, you have your running objection and for the record, the objection is overruled. I'm going to sustain the objection to the form of the question.

Q. (By Mr. Grodsky): Mrs. Greenwood, with reference to these various conversations, what did you say as to what could be done with reference to the Mine Workers?

A. I don't recall what I said.

Q. Well, do you recall having said anything at all?

A. I didn't like the idea of them coming in.

Q. Do you recall whether you made any discussion of what could be done—strike that.

Do you recall that you wanted to make them unwelcome? A. Yes.

Q. Do you recall whether you made any suggestions of what [191] should be done to make them unwelcome?

A. To give them jobs that they didn't like to do.

Q. And did you say why you thought that they should be given jobs that they didn't like to do?

A. Because I understood that was the only way that they would leave the plant.

Q. Now, on the date that Ann came to work and was assigned to work on the take-off job, had she had experience at that job before?

(Testimony of Helen Irene Greenwood.)

A. Not on that particular conveyor, no.

Q. Now, from what you say, I assume that if I asked you the question with reference to another conveyor the answer might be different?

A. Yes.

Q. Then, she did have experience on the take-off job on another conveyor? A. Yes.

Q. Do you know which conveyor that was?

A. No. 2 conveyor.

Q. Is that the middle sized conveyor, the one between the small and large?

A. It is the smallest.

Q. That is the smallest conveyor. You are not the leadlady on that conveyor, are you?

A. No. [192]

Q. You have observed her working there, is that it? A. Yes.

Q. Have you observed what work is done on that conveyor? A. On the No. 2 conveyor?

Q. Yes. A. Yes.

Q. What work is done on that conveyor?

A. They are wire stations, taping and take-off.

Q. Well, is that a final assembly conveyor the same as the No. 1 conveyor?

A. No, it's not a final.

Q. When they assemble at that conveyor, how large—strike that.

What is the final product called, is that called a harness?

A. The final, yes.

Q. No, I mean on the No. 2 conveyor.

(Testimony of Helen Irene Greenwood.)

A. It's called the first tape.

Q. How many wires, if you know, are there in the first tape?

A. Well, there's different tapes that have more wires than others. The majority of the tapes are around eight to ten wires in the first tape.

Q. And have you observed the jigs that they use on that table? [193]

A. Yes.

Q. What is the size of those jigs?

A. They are a smaller jig than on the No. 1.

Q. Have you observed the prongs in which they put the eyelets and they put the wires with reference to the No. 1 conveyor, are the number of prongs on the jigs on the No. 2 conveyor fewer in number?

A. Yes.

Q. Now, when Ann came to work on the conveyor on February 10, did you instruct her as to how the job should be performed?

A. No.

Q. Did you observe her in the performance of the job?

A. Well, as best I could at the time that she was brought on the conveyor. I was on the conveyor myself at the opposite end.

Q. How far, in terms of feet, were you from where she was?

A. Oh, I'd say about 25 feet, 20, somewhere along there.

Q. Did you observe whether she had gloves to work with?

A. She didn't right away, no.

Q. Do you know whether the girls who worked there customarily wear gloves?

(Testimony of Helen Irene Greenwood.)

A. At that station, yes.

Q. Why do they wear gloves?

A. To protect their hands.

Q. Have you observed what the nature of the work is with [194] reference to their hands?

Well, I will rephrase the question, it's a little awkward.

In removing the harness from the jigs, is it necessary to get the hands under all of the wires on the jig?

A. You don't necessarily get them under, you can pull the wires up. You don't have to get your hands underneath the jig.

Q. I mean underneath the wire?

A. Yes.

Q. Do those wires have rough edges at the point of contact? A. Not the wire, the pegs.

Q. Yes. And have you observed that when you try to pull up the wire that if it's slack, it's rather easy to pull up but that sometimes it may be pulled, the wire may be pulled tighter and it may be more difficult to pull up? A. Yes.

Q. And if it's more difficult to pull up the hands would tend to slide along the wire? A. No.

Q. Well, isn't it your experience in every-day life that when you want to pull something up—

A. You pull harder, yes.

Q. And if it is, if it doesn't give, your hand slides [194] along the wire?

Mr. Macomber: I'm going to object to the form of the question. It's leading and suggestive. This is

(Testimony of Helen Irene Greenwood.)

his witness, after all, and now he is arguing with her about the mechanics of this procedure and I suggest the question is leading and suggestive. And it is argumentative.

Trial Examiner: I will sustain the objection.

Q. (By Mr. Grodsky): I will rephrase the question, Mrs. Greenwood.

Have you observed that at times when the girls lift up the wire their hands tend to slide along the wire?

Mr. Macomber: I object to that as having been asked and answered.

Trial Examiner: I don't recall that it has been answered. The objection is overruled.

The Witness: No, your hands don't slide. They couldn't. You lift up. They aren't going to slide this way.

Q. (By Mr. Grodsky): On the day when Peggy Redden told you that Ann was being sent to your conveyor, what did you have in mind with reference to assigning Ann on the take-off job?

Mr. Macomber: I want the objection to be noted, I object to the form of the question. I think it calls for the conclusion and opinion of this witness which, insofar as it may be relevant at all, would be hearsay as to the [196] corporation and certainly not binding upon it in the absence of some proof that this lady was directed or being authorized in her activities by the corporation or lawful agent thereof.

What she had in mind is a private opinion good or bad and would not be binding upon the Essex

(Testimony of Helen Irene Greenwood.)

Wire Corporation without some further evidence that she was authorized on the behalf of the corporation.

Trial Examiner: Well, the general nature of the objection as to whether or not anything the witness said or did or thought is binding upon the company, my general ruling as expressed here yesterday will still apply that in the event on the part of General Counsel it fails to show any direct authorization or status on the part of Mrs. Greenwood from which authority to act could be inferred, the entire matter will slip from perspective as not binding upon the company.

With respect to the objection, insofar as it goes to a search of the witness' mental processes, the objection may be well taken insofar as the form of the question is concerned.

I will sustain it in that regard.

Mr. Grodsky: Mr. Examiner, I'm exactly seeking the witness' mental processes and I wish to argue the point that this particular juncture, her mental processes are material and are [197] relevant.

Now, I don't understand, if I'm in error on that, then, I am at a loss.

Trial Examiner: Her mental processes, as I view the matter, that very well may be material and relevant. However, I merely suggest that the question be rephrased, in an attempt to elicit more specifically from the witness either her mental process at

(Testimony of Helen Irene Greenwood.)

a particular time and in connection with a particular event or objective indications, if any, of what her mental process was.

Q. (By Mr. Grodsky): When you assigned Ann to the take-off job, did you have in mind the fact that she was a supporter of the Mine Workers?

A. Yes.

Q. What was the purpose of your assigning her to that job?

A. Well, we needed an experienced girl and I considered Ann experienced. They do have their—move the girls around in our department whenever we see fit.

Q. Did you consider the take-off job as a disagreeable job? A. No.

Q. Did you think that Ann would consider it a disagreeable job? A. Yes.

Q. Was that one of the reasons why you assigned the job to her? [198] A. Yes.

Q. Before February 10 of 1954, was there a lady by the name of Freda Totodo who had had the take-off job? A. Yes.

Q. And for how long a period of time had she had that job?

A. Two and a half to three years.

Q. When she was taken off that job, do you know why she was taken off?

A. A doctor's report.

Q. When she was taken off the job who was assigned to that job? A. Jo Hutchins.

Q. Did Jo Hutchins have that job at all times

(Testimony of Helen Irene Greenwood.)

after the date that she was assigned to it until February 10? A. Yes, that was her station.

Q. And was there a girl who would regularly relieve her at such times as she would need relief?

A. I don't understand your question.

Q. Well, there would be a time, or wasn't there times when she would have to leave the line?

A. Yes, the relief for the rest room, yes.

Q. And at such times was there a specific girl who would always step in and take her place?

A. Yes.

Q. Who was that girl? [199] A. Myself.

Q. You have worked that station then?

A. Yes.

Mr. Grodsky: No further questions.

Cross-Examination

By Mr. Macomber:

Q. I take it from your answers, the answer to some of the questions produced that your primary reason for putting Ann on the so-called take-off spot on the conveyor belt was because of her experience? A. Yes.

Q. And this matter of whether you thought she would deem it a disagreeable job was truly incidental to your motivation, or to your thinking, is that right? A. Yes.

Trial Examiner: Your answer is what?

The Witness: Yes.

Q. (By Mr. Macomber): I mean it was a pri-

(Testimony of Helen Irene Greenwood.)

vate sentiment but so far as you know, you and you alone enjoyed, is that right? A. Yes.

Q. You did not disclose that sentiment to any foreman at the time, did you? A. No.

Q. And had not previously discussed that sentiment with any foreman or any other responsible official as far as you [200] know of the Essex Wire Corporation? A. No.

Q. And you say, in fact, in answer to counsel's opinion, that is not a particularly disagreeable job, is that right? A. No.

Q. The Totodo woman who left the job was a woman 50 years of age, or thereabouts?

A. Approximately, yes.

Q. And had worked on that job how long?

A. Two and a half or three years.

Q. And did this Jo Hutchins, or did she not work uncomplainingly up until the 10th of February?

A. She requested that position on the conveyor.

Q. Jo Hutchins requested it? A. Yes.

Q. And as far as you know, worked continuously on it? A. Yes.

Q. Of whom did Jo Hutchins request that job?

A. Of the foreman.

Q. And as far as you know, had never complained? A. No.

Q. You had worked the job yourself?

A. Yes.

Q. And you hadn't complained?

A. No. [201]

(Testimony of Helen Irene Greenwood.)

Q. Have you cut yourself up in the job doing it?

A. I had a few scratches. We all have.

Q. You get that on other jobs, too?

A. Yes.

Q. You wouldn't go so far as to say that you had seen anything other than scratches, is that so?

A. That's right.

Q. On the morning of February 10 and prior to her departure from the job, did you hear any complaints from Ann Hamilton? A. No.

Q. No complaints from her at all?

A. Not to me.

Q. Did she request of you any gloves at any time? A. Not of me, no.

Q. Now, going back to the subject concerning which counsel inquired, to wit, whether you thought this was a difficult job, you said you didn't think it was a difficult job but you thought Ann would think it was a difficult job?

Mr. Grodsky: Disagreeable.

Q. (By Mr. Macomber): Disagreeable. You thought Ann would think it a disagreeable job. Can you amplify that statement and tell us what you had in mind?

A. They think the No. 1 conveyor is the hardest place in the plant to work and they just don't like to work on the conveyor because you work at it steady. You can't stop and [202] sit down. You keep working away. You couldn't have any, you just can't leave it when you feel like it to get a

(Testimony of Helen Irene Greenwood.)

drink of water or go to the rest room. You have to wait until you are relieved to go.

Q. How long have you known Ann?

A. Well, I don't recall how long she has been there. I have known her since she's been there at the plant. About a year, maybe a little less.

Q. Were you there when she was working on the conveyor sometime prior to the holidays, as you put it, I think? A. Yes.

Q. To refresh your recollection would that have been sometime prior to about December 15?

A. Yes, I believe so.

Q. Do you recall whether during any of the time prior to December 15 she had worked at all on any occasion on this so-called take-off station?

A. No, not on the take-off.

Q. There was from—not on the take-off station?

A. No.

Q. The woman who worked on that is the Totedo woman, is that correct? A. Jo Hutchins.

Q. Jo Hutchins? A. Yes. [203]

Q. Jo Hutchins worked there since when? Approximately, you don't need to give the precise date, approximately? A. I'd say four months.

Q. Is the experience that you get on that No. 1 conveyor whether on the take-off station, the wire station or the other station mentioned, is it transferable so that experience on any part of that conveyor is helpful on any other part? A. Yes.

Q. In other words, you deemed that such experience as Mrs. Hamilton had in connection with

(Testimony of Helen Irene Greenwood.)

that conveyor or a conveyor like it would be helpful on that so-called take-off job? A. Yes.

Q. Now, is there any particular skill, any particular skill, any great skill, let us say, involved in that take-off operation? A. No.

Q. While some experience, I take it, from your answer on that conveyor is helpful? A. Yes.

Q. No experience is necessary to operate that take-off station? A. No.

Q. Did you speak—strike that. [204]

As I understand it, you did not speak to Ann about coming on the job? A. No.

Q. Before she was directed there by her lead-lady, is that right? A. That's right.

Q. As I understand it, you learned or ascertained through your foreman that the repair girl was absent? A. Yes.

Q. And that Jo Hutchins who was on the job at that time had had previous experience at the repair table and thus it became necessary to move someone with such experience over to the repair table, is that right? A. Yes.

Q. Did you know that Jo Hutchins was such a person at that time, that is, she had had such experience on that repair table? A. Yes.

Q. Now, that repair table, I think in accordance with some previous testimony is about what, 60 feet away?

Trial Examiner: I believe it was estimated 90.

Q. (By Mr. Macomber): 90, give us your estimate, how far from that table is the take-off posi-

(Testimony of Helen Irene Greenwood.)

tion on the conveyor upon which Ann was working?

A. I'd say around 50 feet. [205]

Q. You would say around 50 feet. What is the general nature, the function at the repair table?

A. Repair the harnesses as they come around on the overhead conveyor. If there are any holes left in the tapings, any rubber sleeves worn off the terminals and if the terminals come off, they put them on, just the repair, if any, to do.

Q. Now, the taping machine upon which Ann was working at the time this all came about in making switches is located a relatively short distance from this conveyor, was it not? A. Yes.

Q. In terms of feet would you say it was any more than about 12 feet? A. About 15 feet.

Q. Well, there were no other taping machines between Ann and the conveyor, were there?

A. Two.

Q. Two other taping machines?

A. I think so, one or two.

Q. Do you recall who the girls were on those machines? A. Eunice Ford and Evelyn Wire.

Q. But neither of those girls, to your knowledge, had ever worked on the conveyor machines?

A. No.

Q. To refresh your recollection, couldn't you recall that Ann Hamilton had experience with the take-off operation on [206] the No. 2 conveyor machine? A. Yes.

Q. She did have?

A. She was on that station, if I'm not mistaken,

(Testimony of Helen Irene Greenwood.)

the day she asked me if I couldn't get her on the No. 1 conveyor.

Q. That was approximately when?

A. In the month of October or November, I don't really remember.

Q. In October she was working on the take-off station, is that right? A. Yes.

Q. Of No. 2? A. No. 2.

Q. And she personally requested you at that time to go over on the No. 1 conveyor?

A. Yes.

Q. And did she personally request at that time, that is, in October of 1953, that she be placed on the take-off station? A. Yes, on the conveyor.

Q. Didn't specify any particular job?

A. No.

Q. Or specify any abhorrence of the take-off job, as I take it? A. No. [207]

Q. So did you request that of your superiors that she come over there to your conveyor?

A. Yes. I told Mr. Kresin that Ann had asked to be put on the conveyor and that was the girls that he wanted on the conveyor were ones that wanted to be there.

Q. Were you always friendly to Ann?

A. Yes.

Q. With Ann? A. Yes.

Q. As a matter of fact, had you had any words with her up to this point? A. No.

Q. Had you ever had any disagreement up to this incident? A. No.

(Testimony of Helen Irene Greenwood.)

Q. That is, up to February 10? A. No.

Q. As I understand it, she never complained of any work she had done while on the No. 1 conveyor and prior to approximately December 15, 1953, when she went off the conveyor? A. No.

Q. Do you know of your own knowledge that at the time she went over to the No. 1 conveyor about December 15, 1953, that it was at that time contemplated she would be only temporarily moved to the conveyor? [208]

A. She was taken off for doctor's request.

Q. On a five-day absence?

A. That I don't know.

Q. You never had occasion to discuss that with Ann? A. No.

Q. Nor did you ever see the doctor's slip?

A. No.

Trial Examiner: If you are about to pass to another subject, I think that this might be a good point for a five-minute recess.

Mr. Macomber: It will give me a chance to go over my notes.

Trial Examiner: There will be a five-minute recess.

(Short recess taken.)

Trial Examiner: The hearing will be in order.

Q. (By Mr. Macomber): Inquiry was made regarding gloves for Ann Hamilton. Do you know who actually obtained the gloves for her this morning?

(Testimony of Helen Irene Greenwood.)

A. Betty Cave told the foreman that she needed gloves.

Q. The foreman was this Mel?

A. Mr. Kresin.

Q. And when were they obtained in point of time to Mrs. Hamilton's departure?

A. Well, I don't know for sure but I would say she received her gloves within 20 minutes from the time she [209] requested them.

Q. You say within 20 minutes of the time she requested them? A. Yes.

Q. Did you overhear her request gloves?

A. No.

Q. No request made of you. I take it that is an understanding you have based on hearsay?

A. Yes.

Mr. Grodsky: I move to strike that testimony because it is based on hearsay.

Trial Examiner: It will be disregarded.

Q. (By Mr. Macomber): But you did actually see the gloves handed to her and see her put them on? A. I saw her wearing them.

Q. Did you observe at any time prior to her departure blood running from her hands or deep gashes or horrible cuts or anything of that kind?

A. No.

Q. Did you see her hands? A. Yes.

Q. Did you see any scratches on them?

A. No.

Trial Examiner: The original question was, Mr. Macomber asked how long before the time she left

(Testimony of Helen Irene Greenwood.)

the station [210] that she got the gloves. You saw the gloves handed to her. Can you estimate how long that was?

The Witness: I did not see the gloves handed to her.

Trial Examiner: I thought you said you had?

The Witness: No, it was, I said I heard she requested the gloves and within 20 minutes that she had received the gloves.

Trial Examiner: The question——

The Witness: Then I saw her wearing the gloves but I didn't actually see her put them on.

Trial Examiner: From the time that you saw her wearing them to the time that she left the station, what period of time was that?

The Witness: Thirty minutes, 35.

Q. (By Mr. Macomber): Were you present when she actually left the job? A. Yes.

Q. Did she complain to you of any illness before leaving? A. No.

Q. Now, as her leadwoman on that job, would it have been and was it customary if she had anything disturbing her in the way of illness or otherwise, to report it back to you? A. Yes.

Q. And that is a sort of so-called standing operating procedure? [211] A. Yes.

Q. Did she report anything to you?

A. No.

Q. Or ascribe any reason at all for leaving the job? A. No.

Q. Did you thereafter follow her with your eyes,

(Testimony of Helen Irene Greenwood.)

did you see what she did? Just tell how she left if you saw her leave, what did she do, put down tools, walk off, that is the sort of thing I'm trying to get.

A. Well, she picked up her purse and gloves and I believe went back to the taping machine or to Loraine.

Q. Who is Loraine? A. Sister-in-law.

Q. Loraine Evans is her sister-in-law?

A. Yes.

Q. She is the other complainant in this matter?

A. Yes. And she and Loraine walked by me out toward the main door. [212]

* * *

Q. Now, I asked you a moment ago about this James Hamilton. James Hamilton is the husband of Ann Hamilton, according to your understanding? A. Yes.

Q. Do you know him to see him around the place? A. Yes.

* * *

Q. Now, do you remember or know the station to which Hamilton was assigned, what he did in the plant?

A. He was the shipping out clerk, I believe, or packer.

Q. And what was the general nature of the work he performed, can you describe it to the Trial Examiner?

A. He weighed the boxes and sealed the boxes and stamped the boxes.

(Testimony of Helen Irene Greenwood.)

Q. Now, after the drive started were there other people in the general area where he was employed, or around the [215] plant, who you came to know as members of the United Mine Workers?

A. Yes.

Q. Did you notice any change during working hours in the activity of this Hamilton?

A. I noticed he didn't work as hard as he had been and had left the station an awful lot.

Q. Did you observe him having these conversations and so forth with other people who are members of the United Mine Workers?

A. Yes, it seems that every time any friends went to the drinking fountain, he was right over there behind the boxes talking to them.

Q. And that started about sometime after the holidays or the first of the year, 1954?

A. Yes.

Q. Did he seem to circulate through the plant more often?

A. Well, he was on—yes. He was over on the other side, too.

Q. Did you see him from time to time talking to Loraine Evans?

A. Yes, he worked right near her.

Q. Loraine is what, she is related to him in some way or other, isn't she?

A. Brother and sister. [216]

(Testimony of Helen Irene Greenwood.)

Redirect Examination

By Mr. Grodsky:

* * *

Q. Where did Mr. Hamilton work with reference to your department?

A. Well, he worked at the other end which would be about 50, 60 feet up by the repair table is where he worked.

Q. His wife, Loraine, where did she work from where he was working—excuse me, his sister?

A. She worked 10 feet, I don't know, 8 to 10 feet from her brother.

Q. And before the time this Mine Workers activity came into the picture, did you have any particular reason to observe what Mr. Hamilton was doing? A. No.

Q. But after it came into the picture you knew he was active on that behalf, didn't you?

A. Yes.

Q. And you kept a special lookout for him, didn't you? A. Yes.

Q. And when you say that he spent more time talking to his sister after that than before, isn't it fair to say that you really don't know how much he spent talking to his sister before then?

A. I don't think I specified his sister. I think I said the ones that were in the United Mine Workers, that every time they came to the drinking fountain, J. C. was over there [230] talking to them.

(Testimony of Helen Irene Greenwood.)

Q. Now, I recall Mr. Macomber asking you whether you observed him talking to Loraine and I believe you answered it you observed him talking to her a great deal of time. A. Well, yes, he did.

Q. But you don't know if that was more time he talked to her before or less, do you?

A. I believe it was more after the United Mine Workers.

Q. On what do you base that opinion?

A. Because before when they weren't in there, there wasn't all of this talking in corners and going behind boxes and sneaking around.

Q. Isn't it a fact that before then you just weren't aware of him at all?

A. Yes, I was aware of him. I think the whole plant was aware of the Hamilton family.

Q. You mean before this activity?

A. Long before the United Mine Workers were there.

Q. Now, did you at any time report your observations about Hamilton to your foreman?

A. No.

Q. Did you report it to any representative of management? A. No.

Q. Did you discuss it with anybody, any representative of the company before today? [231]

A. Whether I had seen J. C. talking to Loraine?

Q. That you had observed, the testimony you have given here today about J. C. In other words, that you had seen him sneaking behind boxes and popping up at the drinking fountain.

(Testimony of Helen Irene Greenwood.)

A. No, I think I made my remarks to the committeewoman.

Q. You made your remarks to the committee-woman? A. Yes.

Q. That is Betty Cave? A. Yes.

Q. When did you do that, I mean was it at the time it happened, approximately?

A. Well, when it was known the United Mine Workers were in there.

Q. I show you General Counsel's Exhibit 2 and ask you if you have seen this notice posted on the bulletin board? A. No, I did not see it.

Mr. Grodsky: No further questions.

Recross-Examination

By Mr. Macomber:

Q. I gather when you say you haven't seen that bulletin and you have not, likewise, seen these company rules, I gather from a previous answer that you gave to your counsel that you are just not a bulletin board reader, is that it? A. Yes.

Q. You indicated that you sometimes casually glance at it [232] but you are not one of these people that stand and read bulletins and that sort of thing? A. No, I don't.

Q. And you were not telling this Examiner that that bulletin which was just handed you a moment ago or the company rules and regulations that were

(Testimony of Helen Irene Greenwood.)

previously submitted to you were not sometimes upon that bulletin board?

A. No, I did not see them.

Q. You just didn't see them? A. No.

Q. But there could have been a lot of things you didn't see? A. Yes.

Q. And you are not suggesting by any of your answers that they were not there? A. No.

Q. Now, your counsel asked you about these people sneaking around corners and going behind boxes and that sort of thing. Did you notice that United Mine Workers on company time and on company property sneaked behind boxes and around corners after this organization campaign or whatever it was started the first of the year thereafter?

A. You mean are they still doing it?

Q. I don't care about whether they are still doing it. I can take it or leave it. Were they still doing it back in [233] February of 1954?

A. Yes.

Q. And that would occur during company hours, is that right? A. Yes. [234]

* * *

ALEXANDER GORDON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. State your name and address.

A. Alexander Gordon, 2536 University Avenue.

Q. Mr. Gordon, what is your position at Essex Wire? [244]

A. In charge of inspection.

Q. And was Loraine Evans employed in the department in which you were foreman?

A. Yes.

Q. Is your title foreman?

A. I'm a foreman, actually, yes.

Q. How long were you Loraine's foreman?

A. For about 14 months, I guess.

Q. And is that until the time that she was discharged?

A. Yes. [245]

* * *

Mr. Macomber: There is one thing I would like to call to the Examiner's attention at this time while I think of it and it's Article 4 of the contract in effect during the year 1954 and I assume that the same provision was in the 1953 contract and I read it at this time only as it bears upon the testimony of one of the witnesses to the effect that there was some union representative—I have forgotten his name—Sienco in there at some time working on company property.

Article 4 is as follows:

“Union representatives properly accredited to the

company by the union shall have access to the plant for the purpose of contacting committeemen and/or employees through arrangement with the personnel department.

“The company shall not impose regulations which will have the effect of excluding the union representative from the plant of the company or of rendering ineffective the intent of this [263] provision.”

* * *

ELIZABETH ANN HAMILTON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

Q. Will you please state your name and [264] address?

A. Elizabeth Ann Hamilton, 269 San Jacinto Street.

Q. Speak up, please, and look over toward where Loraine is and it will be easier for you to speak up.

When did you work in the plant, when did you start working?

A. Last part of May.

Q. Of 1953?

A. Yes, sir.

Q. And you worked there until February 10 of 1954?

A. Yes, sir.

Q. What was your job when you went to work at the plant?

A. Taper.

Q. That is a taper on the taping machine?

(Testimony of Elizabeth Ann Hamilton.)

A. Yes.

Q. During the time that you were working at the plant, did there come a time when you became interested in the activity on behalf of the United Mine Workers? A. Yes, sir.

Q. And what activities did you partake in?

A. Well, having cards signed and visiting people's homes at night.

Q. When you visited people's homes at night, did you do that yourself or in company with someone else?

A. In company with someone else. [265]

Q. With whom else did you go?

A. Loraine Evans, my husband and Mrs. Evans' husband.

Q. Did you all four go at the same time or did you just go at different times with different ones of these people?

A. Well, the largest part of the time it was with Mrs. Evans, myself and her husband.

Q. These visits that you described were made to employees' homes? A. Yes, sir.

Q. During what month or what months did these visits take place? A. December, January.

Q. Did there come a time when you put on a union button? A. Yes, sir.

Q. Do you know the date on which you put on a union button? A. February 8.

Q. And why are you sure of that date?

A. Well, I remember the date because I asked and talked to the Mine Workers' representative who

(Testimony of Elizabeth Ann Hamilton.)

was Al Sabatino and he said we could wear it. That was on a Sunday.

Q. Did you make a special note of the date?

A. Yes, I did.

Q. How did you make a note to remember it?

A. Well, Mr. Sabatino suggested to us that we keep little notes in books on things that happened at different times that [266] we thought might be of importance sometime.

Q. Did any representative of management talk to you about your wearing the union button?

A. Yes, sir.

Q. Who was the first one and when did he or she talk to you?

A. Kenny King on February 8.

Mr. Macomber: Who is Kenny King?

Mr. Grodsky: Kenny King is general foreman.

Q. (By Mr. Grodsky): Where did that conversation between you and Mr. King take place?

A. My taping machine.

Q. What time of the day was it?

A. It was in the morning. I don't remember the exact time.

Q. Was anyone else present who could hear the conversation? A. No, sir.

Q. Now, what did Mr. King say to you and what, if anything, did you say or do on this occasion?

A. He came to me and he says, "Ann," he says, "have you read or have you heard of the notice that Mr. Simon had posted on the bulletin board

(Testimony of Elizabeth Ann Hamilton.)

that there was to be no campaigning on company time or property?"

And I says, "I'm not campaigning on company time or property."

He said, "You are wearing a badge."

I said, "Well, I'm still not campaigning." [267]

And he said, "Well, you'll have to take that badge off."

And I said, "I didn't see why I'm not allowed to wear my badge if other people are."

He said, "Well, we think you are campaigning and you have to take your badge off."

And he left me.

Q. Did there come a time after that when you put your badge back on? A. Yes, sir.

Q. Now, you describe it as a badge, what was it?

A. It was a United Mine Workers pin.

Q. About how large was the pin?

A. Oh, a little bit larger than a 50-cent piece.

Q. And when you told Mr. King about the other people wearing their buttons or badges, to what did you have reference?

A. To the IAM badges.

Q. Did he at that time say anything with reference to them wearing the IAM badges to you?

A. No.

Q. Did there come a time after your conversation with him that you put back on your button?

A. Yes, I did.

Q. When did you put it back on?

A. On the 10th of February. [268]

(Testimony of Elizabeth Ann Hamilton.)

Q. Did you have any conversation with any representative of management after you put the badge on on the 10th? A. Yes, sir.

Q. With whom did you have such conversation?

A. Mel Kresin.

Q. Was he your foreman at that time?

A. Yes, sir.

Q. Where did that conversation take place?

A. At my tape machine.

Q. About what time of day was it?

A. I don't know the exact time. I do know it was in the morning.

Q. Well, during the course of that morning, we have had lots of testimony about this, you were transferred from that job on the taping machine to another job on the rotary conveyor?

A. Yes, sir.

Q. Was your conversation with him before you were transferred? A. Yes, sir.

Q. About how long before you were transferred would you estimate the conversation took place?

A. I will say approximately 10 to 15 minutes.

Q. What did Mr. Kresin say to you and what did you say to him? [269]

A. He came up to me and he says, "Ann, I don't want you to start any fussing or fighting back in the plant about wearing your badge."

I said, Mel, I'm not going to say anything to anyone. If anything is said, they will say it to me."

He says, "Well, you will have to take that badge off."

(Testimony of Elizabeth Ann Hamilton.)

Q. So what did you say and do?

A. And I left my badge on and he walked away.

Q. Did you tell him why you were not taking the badge off?

A. I just said the other people were wearing theirs, the same as I told Mr. King.

Q. Did he make any comment about that?

A. No.

Q. Now, you have told us that at about some time after this conversation you were assigned to a job on the rotary conveyor, is that correct?

A. Yes, sir.

Q. How did you learn about your assignment to the rotary conveyor? A. My leadlady.

Q. Who was your leadlady?

A. Peggy Redden. [270]

* * *

Cross-Examination

By Mr. Macomber. [282]

* * *

Q. Did you sometime in the latter part of the year, 1953, ask Helen Greenwood or suggest to her that you would like to go over on No. 1?

A. I said I would like to work over there.

Q. You told her that, did you?

A. Yes, I did. [297]

* * *

Q. Why did you want to go over to No. 1. What was there about it that made it attractive to you at

(Testimony of Elizabeth Ann Hamilton.)

that time? A. Nothing in particular.

Q. Were you dissatisfied with the people with whom you were working on No. 2?

A. I have never been dissatisfied with anyone I work with.

Q. That goes with No. 1, too?

A. Yes. [298]

* * *

Q. Did you sometime on or about December 15, 1953, have some difficulty which impelled you to go to the doctor and ask to be relieved or to be taken off that job for a week or so?

A. I didn't ask to be taken off, no. The doctor said that.

Q. I will show you a slip which I will refer to as—I will ask you to look at, read and examine Respondent's No. 3 for identification. Just look at it and examine it. [300]

A. Yes, I know when I got this.

Q. And did you tell the doctor at that time that you had some respiratory infection, backache, and that you wanted to be taken off for approximately one week?

A. I didn't tell him. He told me.

Q. I notice the language, a statement asking for relief from the conveyor belt for approximately one week. Do I understand that you did not make that request?

A. That is true. I thought you meant did I ask the foreman to be taken off.

(Testimony of Elizabeth Ann Hamilton.)

Q. You did ask the doctor to be taken off for a week?
A. For a week, that's right.

Q. But at that time the only reason you requested to be taken off was because of this difficulty that you were suffering as a matter of health, is that right?
A. That is true.

Q. You had no difficulty or dissatisfaction on the job?
A. No. [301]

* * *

Q. Up until February 8, 1954, did you see any buttons, that is, union buttons exhibited around the plant?
A. Yes, sir.

Q. What buttons did you see exhibited around the plant prior to the 8th day of February?

A. IAM buttons.

Q. Did you see any United Mine Workers buttons prior to that day? [303]
A. No, sir.

Q. I take it that at least up until February 8, 1953, I take it that up until February 10, 1953, your relationship with the girls on the conveyor belt No. 1, was entirely amicable?

A. I wasn't around them any length.

Q. You had had no disagreement?

A. No, I had no disagreement with anyone.

Q. There had not been any friction, nothing of that kind?
A. No.

Q. As I understand it, February 9th was a Sunday?
A. No.

Q. What day was February 10, what day was it?

A. Wednesday.

(Testimony of Elizabeth Ann Hamilton.)

Q. On a Wednesday. I understood you to say a little while ago on February the 9th, you consulted with Al Sabatino?

A. I didn't mention any dates.

Q. Let's see, I think you said on a Sunday you consulted with Al Sabatino?

A. That's right, but I didn't mention any dates.

Q. That is right. On February 8 you put on your button, your campaign button? A. Yes.

Q. Right? A. Yes. [304]

Q. Your union button? A. Yes.

Q. It was on a Sunday, immediately proceeding that that you talked to Al Sabatino, right?

A. On the 7th.

Q. Where was that conversation had with him?

A. Well, I talked to him in different places, not just one place.

Q. Several different places?

A. That's right.

Q. Can you give us any particular place or places that you had these discussions with him?

A. One place was at my own home, one place at Johnny Sexton's.

Q. Any other places?

A. My sister-in-law's.

Q. Is that when he told you to keep a notebook in case something developed?

A. No, not that day.

Q. When was it that he told you that you were to keep a notebook?

A. When we first started.

(Testimony of Elizabeth Ann Hamilton.)

Q. When you first started? A. Yes.

Q. When did "we first start"? [305]

A. When did we first start campaigning?

Q. Yes.

A. Oh, it was approximately somewhere in December. I won't mention any dates because I'm not positive.

Q. Did you keep a notebook? A. I did.

Q. Do you have that notebook with you?

A. Yes, sir, over there.

Q. What did you report in that notebook?

A. Incidents that happened to me each day. Anything that happened, I wrote it down.

Q. Did he tell you what the purpose of keeping that notebook was?

A. He said in case something happened, always have your notes.

Q. Did he suggest to you what might happen?

A. No.

Q. Did he suggest that there might be some difficulty, plant difficulty arise out of your activity?

A. Yes.

Q. And that you ought to have a record so that you could justify yourself if it came to that?

A. If it came to that, yes.

Q. Where did you keep that notebook during the day that you were on the job? [366]

A. I kept it at home.

Q. You go home at night, would you, and if there was any incident or incidents, would you write those incidents down? A. I would.

(Testimony of Elizabeth Ann Hamilton.)

Q. And would you say that there were no incident or incidents prior to February 8, 1954?

A. That's right.

Q. So that notebook, as far as reporting anything, was totally blank up through and including February 8, 1954, is that correct?

A. Not including February 8, no.

Q. But excluding February 8, 1954, you had a blank notebook, is that right?

A. That's right.

Q. But after you talked to him on Sunday in these several discussions and he told you to put on your union button, that is when you really started writing in that book, is that right?

A. That's right.

Q. And now, on February 8, that is when you put your button on?

A. That's right.

Q. And did you write down in that book that you had had a conversation with one of the foremen regarding the button? [307]

A. Yes, sir.

Q. Were there any other incidents on February 8 other than this conversation which you say relates to the button?

A. No, sir.

Q. Did you wear the button on that day or did you have it in your hand or what were you doing with the button?

A. I wore it until I was told to take it off.

Q. How long was that?

A. I don't know exactly how long it was.

Q. And then on February 9, were you at work?

(Testimony of Elizabeth Ann Hamilton.)

A. Yes, sir.

Q. You did not wear your button on February 9?

A. No, sir.

Q. Why did you not wear it on the 9th?

A. Because I was told the day before to take my button off and the reason I put my button on again was because I consulted with Mr. Sabatino whether it was right, whether we could wear our buttons or not, and he said it was and that is why I put it on.

Q. If I understood you correctly, and correct me if I am wrong, I don't want to misquote you. Mr. Sabatino told you on Sunday on one of several conversations with you that you were to wear the button on Monday? A. That's right.

Q. Did he tell you at that time that it was all right to [308] wear your button?

A. We didn't ask and he didn't say.

Q. On Monday you talked to him again, is that right? A. On Tuesday.

Q. On Tuesday? A. Yes.

Q. Did he tell you by phone or in conversation with him?

A. In a conversation at my own home.

Q. How many times did you see him on the 9th?

A. One time.

Q. Now, then, as I take it, except for this incident involving the button which occurred on the 9th of February, you had had no trouble with any of your co-workers on the job, is that right?

A. That's right.

(Testimony of Elizabeth Ann Hamilton.)

Q. Up through and including February 9th except for this incident involving the button, the conversation you had with the foreman relating to that subject, you had had no trouble with management so to speak or any of the representatives of Essex Wire Corporation?

A. No one except Mr. King.

Q. That had to do with this button?

A. Yes. [309]

* * *

Q. Of that approximate 16, how many of them would you say laughed and giggled?

A. The ones I had seen, I would say four girls directly across that I could see.

Q. The rest were not?

A. I wouldn't know.

Q. Helen Greenwood wasn't laughing or giggling, was she? A. She was laughing.

Q. Appeared to be laughing at you?

A. She was looking at me.

Q. Was Peggy there at that time?

A. No.

Q. Did she ever laugh and giggle at you? [311]

A. That I couldn't say. I didn't watch her.

Q. How long did they continue to laugh and giggle at you before the break period?

A. Up until the break period.

Q. Was there continuous laughing and giggling on the part of three or four girls?

A. I didn't watch them all the time. When I seen them, they was laughing and giggling.

(Testimony of Elizabeth Ann Hamilton.)

Q. Did anyone say anything to you?

A. No, nobody said anything to me at all.

Q. Did you say anything to them?

A. I didn't say anything to them, no.

Q. Did you ask what they were laughing at, giggling at?

A. I didn't have time.

Q. Where were these girls working in relation to you?

A. Right across, as far as from me to you. [312]

* * *

Q. You were concentrating on your work at that time?

A. Trying to figure out how to do it.

Q. Did the giggling disturb you?

A. Yes, it did.

Q. Did you say anything to either your leadlady or committeewoman about that giggling?

A. They weren't around there at that time.

Q. Where was Helen Greenwood?

A. Working on the opposite side with the tape girls relieving.

Q. When you left at the break period, you didn't tell Helen about any giggling, did you?

A. No, because I didn't see Helen.

Q. Where was Helen at the time of the break?

A. I had no idea where she was.

Q. Up until the time of the break period, she was working [313] on the conveyor with you, wasn't she?

A. Not with me, on the side of me.

Q. With the same number of girls, whatever that number was, she was right there?

(Testimony of Elizabeth Ann Hamilton.)

A. Yes.

Q. Did you inquire of her or for her during the break period? A. No, I didn't.

Q. Did you speak to Peggy during the break period? A. No.

Q. Did you inquire of her or for her before you left?

Trial Examiner: Which Peggy is this?

Mr. Macomber: Peggy Redden, she's the committeewoman, isn't she?

Mr. Grodsky: No, Betty Cave.

Q. (By Mr. Macomber): Peggy Redden is one of the leadwomen, she's leadwoman on the taping machines? A. Yes, sir.

Q. The Greenwood woman was leadwoman on the conveyor machine? A. That's right.

Q. Now, normally, and I use that word "normally" with apology, normally, if some difficulty comes up in connection with a job don't you and isn't it customary to report that difficulty to the leadwoman? [314] A. Not always.

Q. Well, do you some of the time?

A. Some of the time.

Q. In other words, if a job isn't going well and there's a leadwoman in charge of it, she's the woman whom at least some of the times you would report your difficulty to? A. That's right.

Q. Is it part of your job to straighten out those difficulties so far as you are advised?

A. So far as I'm advised, I believe so.

(Testimony of Elizabeth Ann Hamilton.)

Q. During all the time that this giggling was going on, where was the foreman?

A. I have no idea where he was.

Q. He wasn't immediately around, in any event?

A. I don't know whether he was or not.

Q. Well, if he was, you didn't see him?

A. That's right.

Q. No other official of the Essex Wire Corporation was immediately around during this giggling period that you can recall? A. That's right.

Q. Now, as I understand it, you were nervous at the break period, right? A. Right.

Q. And you were nervous almost to the point of tears? [315] A. I was crying.

Q. And the first one to whom you spoke about leaving was whom? A. Mel.

Q. And where was Mel when you spoke to him?

A. He was between the coffee tables and the water fountains.

Q. And you told him in these words substantially when you saw him at the point last mentioned, "I would like to go home," is that right?

A. That's right.

Q. That is what you said to him? A. Yes.

Q. You did not tell him that the girls were giggling at the table? A. No, I didn't.

Q. You did not tell him that your hands were bleeding? A. No.

Q. You did not tell him that you were having any difficulties, any dissatisfaction with the job whatsoever? A. No, I didn't.

(Testimony of Elizabeth Ann Hamilton.)

Q. The only thing, as I understand it, you said to him was that you were not feeling well or something of that kind.

A. I just said I would like to go home.

Q. You would like to go home and he told you that you would have to see the nurse, did he [316] not?

A. He said, "If you are sick, go see the nurse."

And I said, "What is wrong with me the nurse cannot help."

And that is all that was said.

Q. You didn't say anything else to him?

A. I asked him for my slip to go home.

Q. But you didn't tell him anything about all the difficulty you had been having at the conveyor belt?

A. At the time I was too nervous and upset.

Q. And that is the only explanation you have for not telling about any difficulty that you had at that conveyor belt?

A. That's right.

Q. But you did say to him, "Don't I have to have a slip in order to go home," right?

A. That's right.

Q. And he told you that, you say, that he would fill out a slip for you and that it would not be necessary?

A. He said he would fill out the slip and hand it in for me.

Q. Notwithstanding that, you went over to the nurse's office, if I understand your testimony correctly?

A. Not after that, no.

(Testimony of Elizabeth Ann Hamilton.)

Q. Did you go at all to the nurse's office?

A. I didn't go to the nurse's office at all. I went to [317] the coffee room where the nurse was.

Q. She was there? A. Yes.

Q. Did you tell her anything about your hands?

A. I just asked her where Mrs. Barnes was and she said she had left for the rest of the day and I asked her where Mel was and she said she didn't know.

Q. You did not ask the nurse for a slip of any kind? A. No, I didn't.

Q. And report any nervousness or things of that kind, did you? A. No, I didn't.

Q. And after you had that conversation with the nurse, did you go back and talk to the foreman or did you just go home from that point?

A. You mean after I talked to the foreman, did I go to the nurse?

Q. I understand you first talked to the foreman?

A. No, I talked to the nurse before I talked to the foreman.

Q. Let me see now, when you first left the job, did you talk to the nurse before you talked to the foreman at any time? A. That's right.

Q. Now, you went out to the nurse, you asked the nurse [318] where Mrs. Barnes was, she said Mrs. Barnes was out taking care of somebody's family, something of that kind?

A. She said she wasn't there for the rest of the day.

(Testimony of Elizabeth Ann Hamilton.)

Q. Then you went out and sought out Mel and talked to Mel and had this conversation which you just told us about? A. That's right.

Q. And with that you went out of the plant, is that right? A. That's right.

Q. And talked to no one else whatsoever?

A. Just my sister-in-law as I passed the table.

Q. I see. And you didn't complain in any way about the difficulty you had at the table up to the moment you left the plant, is that right?

A. That's right.

Q. And then you came back, as I understand it, the next morning and reported for work and your card was gone? A. That's right.

Q. And that is when you went in and you had the various conversations that you have reported with these other people regarding your termination, is that right? A. That's right.

Q. Now, when you talked, when you returned the next day, the first one you talked to, as I understand it, was Mel, is that right?

A. Mrs. Barnes. [319]

Q. Mrs. Barnes told you you would have to go and see your foreman? A. That's right.

Q. You didn't tell Mrs. Barnes, did you, about your cut hands or about the difficulty you had on the job? A. No, not at that time.

Q. Then you went over and did you see Mel?

A. Yes.

Q. Where was Mel when you saw him?

A. Right by the coffee table.

(Testimony of Elizabeth Ann Hamilton.)

Q. And when you talked to Mel, what did he say to you?

A. I asked Mel where my timecard was and why it had been pulled and he told me that I had left without permission and I said, "Well, Mel, you told me that you would fill out the slip and hand it in for me."

And he says, "You ought to know I can't do that."

And I said, "How am I supposed to know you can't do that?"

And he said, "I know nothing about it. You have to see Mr. Harms."

Q. And that was the full conversation you had with him? A. That's right.

Q. And then you went to see Mr. Harms, is that right? A. That's right, 8:00 o'clock.

Q. Did you tell Mr. Harms at any time about the [320] difficulty you had at the table?

A. I tried to explain to him what had happened the day before, the same conversation with Mel and everything and he said, "Well, from what we understand, you walked off the job."

Q. What did you tell Mr. Harms when you saw Mr. Harms? He's the last man in this chain, tell us to the best of your recollection what conversation you had with Mr. Harms.

A. He took me in the nurse's office. No one was there except him and I and I said, "Mr. Harms, I'd like to explain what happened yesterday."

And I told him the same thing.

(Testimony of Elizabeth Ann Hamilton.)

Q. I want you to tell me what you told him.

A. I said, "Mr. Harms, yesterday I asked Mel if I could go home and he said to me, 'What's the matter, are you sick, if you are, go to the nurse.' And I told him what is wrong with me the nurse cannot help. He says, 'I hate to see you go.' I said, 'Don't I have to have a slip in order to be able to leave the plant,' and he said, 'I will fill it out and hand it in for you.'"

Now, that is the same words I told Mr. Harms.

Q. Did you have any further conversation with Mr. Harms? A. Yes, I did.

Q. Tell us about it?

A. He said, "Well, as far as we are concerned, you walked off the job." [321]

And I said, "Mr. Harms, I didn't walk off the job."

And he said, "Well, we think you did."

And I said, "In other words, I don't have a job."

He said, "That's right." [322]

* * *

Q. Then, as I understand it, up until the time you filed these charges, you never told the foreman, Mr. Harms or anybody, as a matter of fact, connected with the Essex Wire Corporation about any difficulty you had on machines with these girls?

A. No.

Q. Nor made any complaint about the gloves except the complaint you made while on the job?

A. That's right.

(Testimony of Elizabeth Ann Hamilton.)

Q. You told us when you left the job your hands were all scratched, they were bleeding and hurting very much? A. Yes.

Q. When you walked over to the nurse and talked to her, were your hands then bleeding?

A. Yes.

Q. Were they then scratched? A. Yes.

Q. Were they then hurting very much?

A. Yes.

Q. You are aware, of course, that the Essex Wire Corporation has a first aid station or first aid facilities? A. Yes.

Q. For scratched hands, right?

A. Yes, sir.

Q. For cut hands. I assume you never consulted a doctor [323] about those hands?

A. No. [324]

* * *

Redirect Examination

By Mr. Grodsky:

Q. Now, I believe, Mrs. Hamilton, that you went to Los Angeles to the Board's office and filed a charge shortly after this incident took place?

A. Yes, sir.

Q. Do you recall the date on which you went up to Los Angeles? [326]

A. I believe it was on the 12th of [327] February.

* * *

(Testimony of Elizabeth Ann Hamilton.)

Recross-Examination

By Mr. Macomber:

Q. You told us, I believe, you thought that Jo put her gloves away, put them in her pocket or something of that kind when you came on to the job, is that right?

A. I said she put them in her pocket, yes.

Q. And you told the Examiner in response to an inquiry just made to you by him that once an issuance was made of this kind, it was the practice of the individual to whom they were issued to keep them, is that right?

A. Are you talking about the gloves?

Q. That is what the Examiner was talking about generally. He said it was the practice to keep gloves once they were issued to you and I understood your answer to be yes, that was it, once there was an issuance of gloves or anything like that—well, I will limit the question to gloves—it was the practice of the persons to whom issued to keep them, wasn't it?

A. That's right.

Q. So when she put gloves in her pocket there wasn't anything unusual about that, was there?

A. No, I wouldn't say.

Q. Now, up until that point, if I understand from your [338] previous answers, you got along with that Jo all right, hadn't had any words or trouble with her?

A. Hadn't had any words with anyone.

(Testimony of Elizabeth Ann Hamilton.)

Q. You didn't ask them when you come over there, you didn't say, "Jo, let me take your gloves," nor, "I need your gloves," or anything of that kind, did you? A. I didn't have time.

Mr. Macomber: That is all.

* * *

LORAIN EVANS

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Grodsky:

* * *

Q. When did you work for Essex Wire Corporation? [339] A. April 2, 1953.

Q. Until what date? A. June 4, 1954.

Q. That is, until June 4, 1954?

A. That's right.

Q. In what capacity were you employed?

A. Inspection department checker.

Q. And during the course of your employment, did you become interested in activity on behalf of the United Mine Workers? A. Yes, I did.

Q. In connection with that, did you sign up employees on cards? A. I did.

Q. And did you on occasion go out and pay calls to employees after work? A. I did.

Q. In the evening? A. I did.

(Testimony of Loraine Evans.)

Q. With your sister-in-law? A. I did.

Q. And with your brother and your husband?

A. I did.

Q. Among the employees who were interested in the United Mine Workers, did you have some kind of title in the plant? [340]

A. Yes, I was appointed their chairman.

Mr. Macomber: What? I didn't get that.

The Witness: The chairman.

Q. (By Mr. Grodsky): Do you recall the date when the employees were wearing union buttons?

A. Yes, I do.

Q. On behalf of the Mine Workers?

A. Yes, I do.

Q. And on the first date that they were, that the employees were wearing buttons, did you have a button? A. No, sir, I didn't.

Q. Did you have any conversation with any representative of management concerning buttons?

A. Yes, I did.

Q. And who was the first representative of management with whom you had a discussion?

A. Well, the first, it wasn't concerning the buttons. My first discussion was with Mr. Simon but it wasn't concerning the buttons.

Q. When did you have a discussion with Mr. Simon?

A. This time about Goldie. Goldie Riggins carried J. C. into the office to Mr. Simon.

Q. And that was the discussion about which

(Testimony of Loraine Evans.)

your brother, J. C. Hamilton, testified earlier in this proceeding? A. Yes. [341]

Q. Were you present at that discussion?

A. No, sir.

Q. How long after that discussion did you have a discussion with Mr. Simon ?

A. I guess it was about 15 minutes later.

Q. Where did you have your discussion with him? A. In Casey's office.

Q. And who was present?

A. Just Mr. Simon and myself.

Q. What did you say to Mr. Simon and what did he say to you?

A. I went in to explain——

Mr. Macomber: I'm wondering if we can have the approximate date?

The Witness: I don't remember the date.

Q. (By Mr. Grodsky): Can you tell us when it was with relation to when you terminated?

A. It was in February, early February.

Q. What did you say to Mr. Simon and what did he say to you on this occasion?

A. I explained to Mr. Simon that the girl J. C. had the argument with was the same girl cussed me out in the hall and I also told Mr. Simon, I told him about the petitions passing around out on company time and I asked him why we wasn't allowed to see those petitions and sign those petitions if we [342] wanted to.

Q. And what did Mr. Simon say to you?

A. At the same time, before Mr. Simon answered

(Testimony of Loraine Evans.)

me on that, Tom Walton, Mr. Tom Walton, he stuck his head in the door at the same time. He heard me say the petitions and he said to Mr. Simon, "That is exactly what I was going to tell you, just what she had said."

So he turned and walked out of the office, he left.

Mr. Simon told me he knew about the petition, he had a whole stack of them in there but didn't know what he was going to do with them.

Q. Did you ever see those petitions?

A. I saw the petition, but I couldn't read them. They wouldn't let us read them or sign them.

Q. Do you know what the contents of the petition was?

A. I saw one girl sign a petition directly in front of me. She told me, I asked her what it was. She said they told her to tell it was a T.V. program.

Q. Were you told by Goldie Riggins or anybody else whom you observed passing around the petition what the petition was?

Mr. Macomber: "Told by Goldie Riggins," I'm going to object to that as hearsay.

Trial Examiner: The question, the bare question is whether she was told, not what she was told. I will permit the question. [343]

The Witness: I did go to Goldie and ask Goldie about it. She is supposed to be a committeewoman.

I said, "Goldie, I understand the petition is supposed to be about the union working conditions, about the job and I feel all of us are entitled to sign if it is."

(Testimony of Loraine Evans.)

Goldie says,—

Mr. Macomber: I'm going to object to what Goldie said.

Mr. Grodsky: I am trying to get what the fact is and not saying the respondent is bound by this particular conversation at this point. This goes to shed light on her conversation with Mr. Simon.

Mr. Macomber: With that understanding, I have no objection.

Trial Examiner: Very well.

The Witness: She told me that it was only for the people that attended the union meeting that night were the people that were allowed to sign the petition.

Q. (By Mr. Grodsky): When you spoke to Mr. Simon and he told you he had a lot of petitions, was there anything further said in that discussion?

A. Yes, I had told him about the way the people was treating us out there and about this particular girl and I told him and he asked me if I ever brought it up to the union to the IAM about the problem and I said, "Yes, I have, several times." And I said, "They tell me that I cannot sign a grievance [344] against them."

So he says to me, "I don't care what they tell you. Any time anybody does anything to you, you come in here to sign that grievance and I will see that you sign a grievance."

Q. Was that the end of that conversation?

A. Yes. [345]

(Testimony of Loraine Evans.)

Q. (By Mr. Grodsky): Now, there has been testimony here that you engaged in conversation with your brother or, more accurately, that your brother engaged in conversation with you at your work station.

Did you engage in conversation with him?

A. No, sir.

Q. At any time?

A. No, sir, the only time I would ever speak to him on anything, we—relief break, that is up to the repair girl and myself to relieve each other if we had to go to the rest room or anything and the onliest thing I ever asked him, I always had my coffee cup and I'd go ask him if he would please get me a cup of water. [355]

* * *

Q. Now, had you been talked to by any representative of management on more than that one occasion that you testified about before you were discharged about arguing and so forth?

A. This one time I was with this girl. She cussed me out——

Mr. Macomber: May we know when that was?

The Witness: I don't remember the date. I definitely don't but I know the name, Jean Rooney, and it was after October. And I guess maybe talk was going around in the shop about the union and other people were talking about it, too. Anyway [373] before——

(Testimony of Loraine Evans.)

Trial Examiner: Before the holidays in 1953 or after?

The Witness: It was before. It was, I wouldn't say before or after, I don't remember but I do know at the 10:00 o'clock break she jumped me out in the hall.

She said to me, "Listen, God damn it, if you don't like the company and the union, why don't you get the hell out from here?"

And I says, "What are you talking about?"

And she said, "You heard what I said, causing the girls trouble out there."

And I says, "Who?"

And she says, "Never mind, just girls."

And I said, "I don't know what you are talking about."

And Mel Kresin was in the office using the phone and I opened the door and I said, "Mel, please straighten this girl out here."

And he said, "I'm on my break."

And I said, "This girl is cussing me. I don't know what she is talking about. Please straighten her out."

And he said, "O.K., in a minute."

So she left, but Mel, I don't see how he could miss hearing her cussing me. She left after the break.

Mel got Alex and we all went in the office, Mel, myself, her boss did and Goldie Riggins and my committeewoman. We went in the office and she

(Testimony of Loraine Evans.)

sat in the office and admitted [374] saying that to me.

And I asked, "What reason do you have saying this to me?"

I said, "Jean, I never spoke to you. I have never done anything to you. Why did you say that to me?"

I said, "I'm going to hear why you said that out there. You don't jump on me for nothing. If I do something, you jump on me. Otherwise, you don't jump on me."

Now, someone told Mr. Simon and Alex come out after me to go to Alex's office and talk to Mr. Simon. I went in there and Mr. Simon asked what it was about and I told Mr. Simon.

Q. (By Mr. Grodsky): Did Mr. Simon make any remarks?

A. Mr. Simon said he didn't allow a man to cuss in here let alone a woman.

Q. Was there any other occasion besides these two about which you have testified when you were talked to by management with reference to any arguments?

A. No, when I was first put on inspection over there, right away, those girls started giving me a bad time. And I went to Kenny King.

Trial Examiner: Which girls?

The Witness: The repair girls, two inspectors and the packers. Dorothea Randall and another girl by the name of Georgia and a girl by the name of Dolly. When I went over there they hollered out to

(Testimony of Loraine Evans.)

me on Saturday, "I wish I could work for Scotty." I ignored them, didn't pay any attention [475] to them and they put me on small parts that day.

Trial Examiner: Scotty was whom?

The Witness: Scotty was my boss before Alex was.

And so I worked all day that Saturday and came in on Monday and when I came in on Monday Scotty told those girls about breaking me in over there and teaching me everything and I was to be a relief girl for girls who go on a vacation, out sick. I was to be a relief girl so they said O.K. and I was put on the line and they were teaching me what to tag and what not to tag and Velma Rubbio was a committeewoman and cussed me every time I put a tag on. They would tell me some holes I would have had to have a magnifying glass to see. The girls were telling me to put a tag on it and I was doing what they told me to do and I didn't know what to do and I said, "If I put a tag on that Velma gets mad." They said, "Don't pay no attention. That is just the way she gets."

Then if I miss anything she hollers at me.

Q. (By Mr. Grodsky): Who is she?

A. Velma.

Q. What's her job? A. Repair girl.

Q. When was this, was this when you first went to work for the company?

A. Yes, it was.

Q. In April? [376]

A. It was in April.

(Testimony of Loraine Evans.)

Q. 1953? A. Yes.

Q. All right.

A. I was on small parts on the table. I didn't know anything and every time I put something on the hook the girls would call the boss on me and tell me I wasn't supposed to put it there and I would ask the boss where to put it and she'd said the hook. I said that is where I was putting it and they said no. [377]

* * *

Direct Examination

(Continued)

By Mr. Grodsky: [384]

* * *

The Witness: She asked Alex for a transfer that she did not want to work beside of me and went way down to the other end.

Q. (By Mr. Grodsky): I didn't ask you that. I asked you how were you and she working together.

A. Yes, we were working side by side.

Q. Was your working relationship harmonious?

A. Yes.

Q. Was it friendly? A. Yes.

Q. Did she tell you that she had asked Alex for a transfer? A. No, I heard them.

Q. You heard what?

A. I heard her when she asked Alex. [388]

* * *

(Testimony of Loraine Evans.)

Q. (By Mr. Grodsky): During the course of time that the union activity was going on, was it your observation from your work as an inspector that more or less harnesses were being produced in the factory? A. Yes.

Q. Which was it?

A. There were more. [390]

* * *

Q. In a conversation which you related to us which you had with Mr. Simon and in which you told us you mentioned to him about certain petitions being passed around by IAM adherents and Mr. Walton stuck his head in the door at that point, do you remember you told us about that conversation? A. Yes, I do.

Q. Did Mr. Simon say anything as to whether or not he knew who was passing these petitions around?

A. He told me he did not know who was passing the petitions around and I told him I do, I know that Dorothea Randall was passing these petitions around and he told me, "I can't prove it."

Q. When he said, "I can't prove it," is he talking about himself saying he couldn't prove it or, in effect, challenging you that you couldn't prove it? A. He said, "I can't prove it."

Q. Did Mr. Simon say, "I can't prove it," or did he mean you, Mrs. Evans, can't prove it?

A. When I told Mr. Simon I knew who was passing those petitions around and it was Dorothea Randall, he says, "I can't prove it." [392]

(Testimony of Loraine Evans.)

Trial Examiner: Let the record show that the witness in giving that response pointed her finger at herself. I take it from the witness' response that she was at that point putting herself in the place of Mr. Simon and, in effect, intending to testify that Mr. Simon said, "I, Mr. Simon, cannot prove it."

Mr. Grodsky: We all understand that [393] response.

* * *

Q. (By Trial Examiner): With reference to this circulation of petitions by Dorothea Randall, how did you happen to know of them?

A. I saw her carrying the petitions from machine to machine for different girls to sign and this girl signed one right straight in front of me about the distance from me to you.

Trial Examiner: Let the record show the witness indicates a distance of about three feet.

Q. (By Trial Examiner): You observed this while you were at work? A. Yes, sir.

Q. At your station?

A. Yes, sir, I saw this one girl, she signed two petitions right in front of me and I asked her what it was about and she told me she was told to tell it was a T.V. program.

Q. At the time that you observed that activity on the part of Dorothea Randall, can you tell us who, if anyone else, saw Dorothea Randall circulating the petition?

(Testimony of Loraine Evans.)

A. Ann saw it, for one, and there were several other girls.

Q. I mean, just a minute. I want it clear, I'm asking you to testify not what other people may have told you they saw but at the time that you saw her who saw the same incident?

Mr. Macomber: I don't like to object, but isn't that calling for a conclusion of this witness?

Trial Examiner: I'm asking for persons within her area [395] of vision.

Mr. Macomber: People who were there?

The Witness: The repair girl was there.

Q. (By Trial Examiner): Were there any supervisors within viewing distance?

A. No, I didn't see any. [396]

* * *

MITCHELL J. SIMON

a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Macomber:

Q. You are the Mr. Simon previously sworn and testified in this matter and I think you said you were the production manager of the local west coast operations, is that correct?

A. That is correct. [399]

* * *

(Testimony of Mitchell J. Simon.)

Mr. Macomber: Before proceeding to the next subject, I just wish to call to the Examiner's attention Article 5 of the agreement in force during the year 1954 between the Essex Wire Corporation and the International Association of Machinists which is one of the exhibits in evidence and with particular attention to Article 5 thereof under the heading of "Complaint and Grievance Procedure" and I read briefly as follows:

"The Company and the Union agree to abide by the following provisions in the matter of complaints and grievances.

"The grievance committee as referred to in Step 3 shall be composed of two members selected by Automotive Electric Lodge No. 1930, and two members selected by the Company.

"Grievances regarding layoffs and discharge shall be filed [402] within forty-eight days in order to be valid."

The Witness: The original contract has hours. That is a typographical error.

Mr. Macomber: Very well, may we indicate that correction?

"The above times may be extended by mutual agreement to provide time for investigation." Et cetera, et cetera.

Then, there are steps outlined which I won't bother to read into the record at this time.

Q. (By Mr. Macomber): In that connection I call your attention, I will ask whether or not there

(Testimony of Mitchell J. Simon.)

was some grievance proceeding or hearing had in connection with the discharge of Loraine Evans?

A. There was.

Q. Were you one of the members of the committee representing the company in accordance with the union contract? A. I was.

Q. Who was the other company representative?

A. Fred Harms.

Q. Can you tell us who the members of the union were there represented in accordance with the contract?

A. The two members selected by the union was the regular grievance committee who, I believe, is composed of Helen McLewin and I don't recall the other girl's name. I think Inez.

Q. Is that enclosed in your record? [403]

A. Yes.

Q. Do you in connection with this grievance procedure keep a record, regular records of the procedure?

A. We keep a record of all the proceedings, all the notes that were taken, everything that was said and keep a record in our file and the union representatives keep a record in their file for disposition of any such grievance.

Q. In that connection, I will exhibit to you Respondent's next number for identification and I will ask you whether these are the records which are kept in the regular course of business in connection with grievance procedure hearings and these records consist of, as I now exhibit them to you, a

(Testimony of Mitchell J. Simon.)

white sheet of paper entitled "Report of Grievance Committee," a document so entitled.

And then there are blue forms called, "Grievance Form" Lodge 1930 and white papers attached. Another grievance form called, "Lodge 1930."

Are these the records kept in connection with the grievance procedure involving Loraine Evans?

A. These records are the complete record of the case involving Loraine Evans and one other employee by the name of Loretta Brown who was involved in this case and disposed at the same time.

Q. Loretta Brown was a member of what union during this time? [404]

A. Same union, IAM.

Q. She was a member of the IAM?

A. Yes.

Q. Following this difficulty involving Loraine Evans immediately prior to her discharge or at about the time of discharge, did she invoke the grievance procedure of your contract?

A. She did as shown here in the evidence.

Q. I see. Will you tell us briefly now something of the procedure which resulted in her discharge, the hearing was held, and that sort of thing?

A. Well, the procedure——

Q. I don't want the legal procedure. I just want you to tell me what you did, who was there, what kind of evidence you took and that sort of thing.

A. They followed the steps of the regular grievance procedure until it got to the third step as

(Testimony of Mitchell J. Simon.)

outlined in our contract. We on this case had the committeewoman who represented the two girls.

Q. Who is she?

A. Betty Cave. She's committeewoman for that side of the harness department. She sat in as representative of the aggrieved. While the aggrieved gave their testimony, both Loraine Evans and Loretta Brown, that is, their committeewoman sat in with the four designated, two members of the company, [405] two members of the union that formed this board to see, to speak in Step No. 3. We heard the aggrieved.

Q. Just in the most general way, what did the aggrieved say about each other? I don't want you to go into the details of the conversation, what was the dispute or clash of arms about?

A. The dispute as outlined in this grievance procedure, Mrs. Evans——

Q. You say grievance procedure. You are referring to Respondent's next for identification?

A. That's right. And outlined in there. We tried to get the exact, as close as we could, the words spoken by both parties at the board hearing.

Briefly and generally Mrs. Evans declared a saintly attitude that she had nothing to do with the bickering that went on that morning for which she had been previously warned in a written record put in her personnel file. Mrs. Evans had continually had trouble with people.

Trial Examiner: Just a moment. You were

(Testimony of Mitchell J. Simon.)

asked to describe what was said. Don't give your conclusions.

The Witness: This was also said.

Trial Examiner: By Mrs. Evans? You were describing what Mrs. Evans said.

The Witness: This is what was said at the hearing.

Q. (By Mr. Macomber): I don't want you to give your conclusions at this time about Mrs. Evans. I only want you to [406] tell me at this time in a general way what Mrs. Evans said about the fracas and about that other lady who was also discharged. Her name was what? A. Brown.

Q. What she said most generally. I don't want you to go into a general conversation. What was the dispute about?

Mr. Grodsky: May I interrupt here? I don't know if this is a proper objection. It occurred to me we ought to get the description of the grievance procedure in this respect. These two grievances were not heard simultaneously and the two girls were not present at the same time, if I am correct, in the hearing room.

Therefore, I believe it would be more appropriate if you talk about each one separately, what did Mrs. Evans say when her grievance was being processed and what did Miss Brown say when her grievance was being processed.

Mr. Macomber: I'm not trying to determine the merits of the controversy by this witness' testimony. I am merely trying to show what came to the atten-

(Testimony of Mitchell J. Simon.)

tion of management that was a grievance procedure in a general way, what management knew about it. That is the sole purpose. I am not trying to decide whether Mrs. Brown was right or Mrs. Evans was right or whether both were right or both wrong at this time and that is the limited purpose for showing it and I want to avoid as much detail as [407] possible.

Unless you feel it is necessary, I don't want to prolong the hearing unduly by what everybody said and that sort of thing.

Mr. Grodsky: Let me assure you, I will if you don't. I'm going to go into it in detail.

Trial Examiner: At the present time on direct examination I think counsel's purpose is proper and I will reserve ruling on that. Mr. Grodsky's point with respect to procedure may or may not be material. If it is correct Mr. Simon can simply state it.

Did Mr. Grodsky correctly state the procedure that Mrs. Evans was present before the board herself and without Loretta Brown being there and then Loretta Brown gave her version independently and not in the presence of Mrs. Evans?

The Witness: That is correct, but at each time their committeewoman representative was present.

Trial Examiner: I understand that from our previous testimony.

Having in mind Mr. Macomber's—the purpose for which he elicited this testimony, would you then proceed in a general way and give the substance of

(Testimony of Mitchell J. Simon.)

Mrs. Evans' statements and the substance of what Mrs. Brown said?

The Witness: Briefly, Mrs. Evans denied she was arguing at all to begin with. Then she denied that she argued after working hours, that she had had this little dispute or [408] misunderstanding. I don't know the words she used before working out. That is briefly, in general. In the presence of her committeewoman and plus the four members of the board.

Mrs. Brown, on the other hand testified that she was in an argument with Mrs. Evans, that the argument started before working hours and carried on until 10:00 o'clock in the morning until the rest period at which time Mrs. Evans proceeded to go to the foreman to tell him that if he heard about an argument that it was untrue. That was the crux of Mrs. Brown's story generally and briefly.

Q. (By Mr. Macomber): Acting on whatever evidence you had before you, did you follow the recommendations of the grievance committee in regard to both of them?

A. That is correct, which is the company policy whenever two people are involved in a dispute, in order that no partiality be shown, we make no determination about who was at fault. We consider both parties participated. We started at it as inconsequential. We don't try to make that determination because it runs out in great hearings and showing no partiality whatever we discharged both employees.

(Testimony of Mitchell J. Simon.)

In other words, you get two employees who fight. As a matter of policy, you don't know who is right or wrong, you don't care. It hurts business, you let both go. It hurts business, hurts everybody working, hurts harmonious relations in the plant. That is it. [409]

Q. Now, did you let Mrs. Evans go?

A. We did.

Q. Let me finish my question. Did you let her go for any reason other than you expressed?

A. Absolutely not.

Q. Did you have in mind when you discharged her that you were discriminating against her because of any activity she had with the United Mine Workers?

A. Absolutely no thought of discrimination.

Q. You have told us that Miss Brown, or Mrs. Brown, whatever her name was who was let go, at the same time was a member of the other or opposite union?

A. As far as I'm concerned, they were both members of the same union using the IAM union grievance procedure.

I don't recognize only the union the National Labor Relations Board has designated as the bargaining agent for that plant. I can't participate in any factional disputes, people's feeling and so on.

Q. The grievance committee, I think the record shows, was unanimous of the four members on the discharge?

(Testimony of Mitchell J. Simon.)

A. That is correct, by means of secret ballot vote.

Q. But the vote is there? A. Yes.

Q. Three of the four recommended the discharge of Mrs. Brown?

A. Yes, by the same vote. [410]

Mr. Macomber: I offer in evidence at this time for the limited purpose to suggest only the company's awareness of the grievance procedure and not as binding on the merits of the controversy in the grievance. I offer this as Respondent's Exhibit next in order.

Trial Examiner: Any objection?

Mr. Grodsky: No objection to the receipt in evidence. I would like to ask one or two questions on voir dire.

I trust that counsel doesn't think I'm abusing the privilege of voir dire examination. I have been using it quite a lot in this proceeding.

Mr. Macomber: I have no objection to it myself providing it bears upon the question of admissibility of this document. If you are using voir dire to cross-examine at this time, I'm going to object.

Mr. Grodsky: I don't intend—I don't think I have done it yet.

Trial Examiner: Very well, I will reserve ruling. You may have the witness on voir dire.

(Testimony of Mitchell J. Simon.)

Voir Dire Examination

By Mr. Grodsky:

Q. Who prepared that report, the document of four pages, the first document, which is headed "Report of Grievance Committee"?

A. That is my report.

Q. That is your report prepared by the company and after [411] you dictated it to your secretary, I gather?

A. Took it from my notes.

Q. And then after it was prepared in its present form, did you read it over and see that it represents correctly what your notes reflect?

A. Absolutely, to the best of my knowledge and ability.

Q. I notice that there are some underlinings of some words written on Page 2, generally, they are names and are underlined in pencil.

That underlining relates to something that happened later when you reread it for other purposes, is that right?

Mr. Macomber: I think I may have underlined that. It is very possible at the time I first perused it that I did that. I didn't have in mind I'd introduce it. It's very possible.

Mr. Grodsky: The only reason I asked, I want the record clear.

Mr. Macomber: I can say, although I wouldn't be too sure about this, but I'm almost certain I underlined these names.

(Testimony of Mitchell J. Simon.)

Mr. Grodsky: That is all right. The only reason I mentioned that that the underlining is not part of the exhibit.

No further questions.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

Let the record show that after discussion and pursuant [412] to a suggestion of General Counsel's representative, the respondent's exhibit next in order may be designated as Respondent's 3 for identification and that the various parts thereof shall appropriately be designated by letter designations A, B, C, D and so forth for each of the several parts thereof, whatever the number may be.

Upon that understanding, Respondent's Exhibit 3 and its several parts will be received in evidence.

(Thereupon the document above referred to was marked Exhibit No. 3-A through 3-E, inclusive, and was received in evidence.)

RESPONDENT'S EXHIBIT No. 3-A

Report of Grievance Committee

On June 4, 1954, one Lorraine Evans and Lauretta Brown were discharged by foreman of the Harness Department for causing contention among employees by constantly bickering and fighting. They subsequently filed a grievance as follows:

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)

Employee stated, "I feel I have been unjustly discharged and wish to be reinstated. Although a warning was given me on May 4, 1954, I feel that it was unjustified. My work is satisfactorily performed and should warrant some consideration. The disagreement on this date, June 4, 1954, was carried on before our regular working shift and was not carried into our working hours. Witnesses in my behalf will be M. Dillon, S. Allman, J. C. Hamilton, Ruth Arlin." Signed by Lorraine Evans, Shop Committeewoman Betty Cave, Foreman Kenneth King.

The foreman's reply on the grievance as follows: "On May 4 this person was warned by me that in the future if there were any other disagreements between her and Laurretta Brown, it would result in a discharge." Also at that time a written statement was made stating that Lorraine Evans, because of previous arguments, was not in good standing with the company and would be discharged at her next offense.

The aggrieved was dissatisfied with these two steps of the grievance and demanded that the Union hear the grievance at the regular Grievance Meeting.

On 6/17/54 a Grievance Meeting was held by the following: Two members of the company, M. J. Simon and F. N. Harms; two members of the Union, H. McLewin, and Inez Hobbs. Both cases were

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
to be heard. The aggrieved were to be heard and they would be represented by the committeewoman, Betty Cave, during the hearing only.

Before the hearing started, it was decided by the Grievance Committee that those in attendance would hear the grievances separately on the individuals concerned namely Lorraine Evans and Laurretta Brown. Lorraine Evans was heard first. M. J. Simon started the meeting by reading the grievance procedure as outlined in our contract because the aggrieved wanted other people to attend. After the grievance procedure had been explained, the grievance form was read conditions of which were heretofore stated. The aggrieved stated that the occasion as referred to in the grievance was before working hours. She also stated that there really was no argument, that she never has had any arguments with the other party nor has she had trouble with other people, and there were witnesses who could prove this and that her foreman would agree that she was a good worker. Her statements were, of course, untrue which was known because of the numerous times this girl has had trouble with other employees. However, her committeewoman in attendance at this meeting did report that she had been approached by the foreman on May 4, 1954, and told that a report was being put in the personal file of Lorraine Evans stating that we did no longer condone the agitation and contention caused by this girl's inability to get along with other people. Mr.

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)

Simon then explained and told of his own experiences in which he has had to settle problems concerning this girl on previous occasions for bickering and fighting in the area and also explained how it was necessary for him to accompany Mr. Harms into this area on previous occasions to iron out difficulties caused by this person. The aggrieved then related instances where she was unjustly accused by other employees of causing contention and that she cooperated by helping out the same individual who was doing repair work on the line, and also that the numerous repairs, etc., were never caused during the shift on which she worked. Then Mrs. McLewin, one member of the Grievance Committee, asked the aggrieved if she felt that her statement of not having trouble in the past with other people was absolutely correct because it was brought to her attention many times by other individuals whom she had trouble with. Mrs. McLewin then asked, "Did you ever have trouble with Ellen Graesch, Dorothea Randall, Shirley Myrick, Vina Holst, Rita Frey, Golda Riggins, Laurretta Brown, or Jean Rooney?" The answer to all of these by the aggrieved was "No." These, of course, are some of the people with which the aggrieved had caused trouble and which made it necessary for Mr. Harms and Mr. Simon to settle the problem. The aggrieved then stated that she always did her work and why the people disliked her, she did not know. She also reassured the committee that there was no argu-

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
ment on the date she was discharged and that she did not tell the foreman that they were arguing.

Lauretta Brown, the other aggrieved party, was then heard. She stated that she had had an argument with Lorraine Evans concerning some of the boots being off the terminals on May 4, 1954. At that time she told her that her foreman had advised her that when she found an excessive number of these coming through, she was to report it to the foreman immediately and that Lorraine Evans told her on this date that she didn't have to do it nor help her out and to just let it pile up and pay no attention to it. Lauretta Brown then related to the committee the argument which took place on the date of 6/4/54, the day of the discharge. That Lorraine Evans accused Lauretta Brown of telling one J. C. Hamilton distorted stories of what she, Lorraine Evans had related to Lauretta Brown. Then the argument began. Then Lauretta Brown informed Lorraine Evans that since they had been warned for fighting on previous occasions, that if the argument continued, they would surely be discharged on this day. Betty Cave, the committee-woman representing the aggrieved related that Lauretta Brown was instructed previously that if there were anything wrong with the wires to notify the foreman and that she had been told that she was doing it in order that the problem could be corrected at its source. Mrs. McLewin then asked this

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)

aggrieved party, "Did you know that Lorraine Evans was going to discuss the matter with Mr. King, the department foreman?" Her answer was no. Mrs. McLewin then asked, "How do you feel you were unjustly discharged?" Laurretta Brown stated that the argument was unavoidable on her part and that Lorraine Evans continued this argument because she did not care what happened to her job because she was constantly talking about getting another job and it didn't make any difference to her, but in the case of Laurretta Brown, she needed her job as she is the sole support of two children. Mr. Simon then stated that whatever the circumstances may be, it is the policy of the company that any two people engaged in arguments and fights in the plant were both subject to discharge and it is an unfortunate circumstance that this person was participating in these arguments both times. We then called in one of the witnesses named and only one because of the fact that the other witnesses named on the grievance by Miss Evans were her brother and close friends who were not in the immediate area. Witness M. Dillon stated before the committee that she had not known of an argument that particular morning. However, they had argued the day before and that on the date of 6/4/54 she relieved Lorraine Evans on the overhead conveyor at approximately near break time for 10 minutes. Witness was not asked any questions and dismissed. Mr. King, the department foreman, was called in

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)

and asked by the committee how he knew of the argument. He related that he had heard of the fuss going on and sent to the section foreman, Mr. Kresin, in charge of the area and was discussing it with him when he was approached by Lorraine Evans who had been relieved at that particular time. He sat down with Miss Evans in his office and unlike her previous statement, she stated that there had been an argument going on and she wanted to report to him that Miss Brown was causing the trouble for her and she knew that from her previous problem that she would be discharged if the arguments did not stop. Mr. King then stated that it is just another series of the same thing and he could not accept her story as gospel because of her previous troubles and that he would listen to Laretta Brown's side of the story before making his decision. Since Miss Evans accused Laretta Brown of starting the argument by telling stories about her and calling her names which were derogatory to her character. Mr. King then heard Laretta Brown who stated that she had said nothing about Miss Evans to J. C. Hamilton and that Miss Evans had been talking about her and arguing approximately five times with other people in the same area and always making trouble. She also related that she had only been warned once before and since it concerned the same girl that she didn't feel she should be discharged. Mr. King stated then that he discharged these people for arguing. Mr. King

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)

then left the committee hearing and Mr. Kresin, the section foreman, was called in. He was asked by the committee what he knew about the argument and how he knew it was going on. He stated that the people involved did not work together and Miss Brown went to him telling him that Lorraine Evans was causing trouble with her again and arguing, and other girls in the area related that the same argument was going on again and they did not like to work in that kind of atmosphere. Miss Brown then requested Mr. Kresin to move her off that particular job so she could get away from the area entirely. She felt that there could be no one in that area working with any peace of mind because of Miss Evans. Mr. Kresin then stated he could not move her at that particular time because she was needed on that job and that he then turned the case over to Mr. King, general foreman of the department.

After this testimony was heard, the facts of the case were discussed by the committee, the grievance procedure in the contract discussed, the company policy regarding fighting was discussed, and then the two members of the company and the two members of the Union according to the contract proceeded to vote on a secret ballot regarding the question as follows: Do you feel that the aggrieved, Lorraine Evans, was discharged unjustly? The ballots were taken and counted and are on file. Four nays. A ballot was then taken regarding Lau-

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
retta Brown on the same question. Results were three nays and one aye. The case was closed and the two people involved remained discharged.

Received in evidence August 4, 1954.

Mr. Macomber: If you have any questions, you may cross-examine.

Mr. Grodsky: Yes, I have some questions.

Cross-Examination

By Mr. Grodsky:

Q. Mr. Simon, how was the vote taken of the committee, was the vote taken immediately after Mrs. Evans was heard or did they wait until they heard Mrs. Brown's case as well and then they took the vote on each one of the grievances?

Mr. Macomber: I raise this question, I may be wrong, but I raise this question: I have stated that this was introduced for the limited purpose only of not attempting to prove or disprove anything with relation to the merits of the controversy between these parties and it was introduced for the limited purpose of showing that the grievance [413] procedure required under the union contract was filed and as it might bear upon the good faith of the company as reflected through the activity of this particular official who is now here testifying. I apprehend that any evidence by way of cross-examination or otherwise that bore upon that good

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
faith would be proper. I apprehend that any evidence to show whether or not the hearing that these people had was actually a fair hearing, whether they got due process as of law as we lawyers like to think of the due process of law.

Whether there was actually any merit to the evidence from which the grievance committee made its report would not be particularly material at this point in view of the limited purpose for which we make this offer. We can get into the matter of the actual controversy of the parties and undoubtedly will with other evidence.

Trial Examiner: My own reaction would be that as bearing upon the company's good faith, if you want to call it that, the company contending that they acted in good faith and the General Counsel contending that it acted with discriminatory motive, it would seem to me that the pending question has a bearing on precisely that point.

It may very well be that your observation with respect to cross-examination as to the merits of the controversy might be well taken but on the particular pending question as to the mechanics of the vote, I can see that to be just as germane [414] in giving a picture of the proceeding per se as the other material embodied in Respondent's Exhibit 3.

Mr. Macomber: That is why I did not object to the last question, if you recollect. I had this in mind, if the company followed the grievance procedure required by the contract which they have

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
with the union, keeping in mind that this grievance procedure was, after all, the subject of a bilateral contract with the union, that two members of the union also participated in these determinations, these proceedings and presumably, in the establishment of this procedure, that even if one were to criticize the procedure as such, it would, you have got to keep these other factors in mind. The company could not make any unilateral determination as to what due process was or wasn't.

With that observation I will retire but I make that statement because on that you may form the basis for my objections I may hereinafter make.

Trial Examiner: Very well, I will have the point in mind.

The pending question, Mr. Simon, is whether you recall the manner in which the vote was taken in respect as to Mrs. Evans and Mrs. Brown, respectively.

The Witness: Since the case involved two people we heard all the facts by both people and then proceeded to take our vote.

Q. (By Mr. Grodsky): In reply to a question by your counsel, [415] I don't know whether you intended the reply to mean that it would seem the discharge was effective only after the time that the grievance procedure had been completed. Isn't it a fact that Loraine and Loretta had been both discharged on the 4th of June and that they thereafter did not work in the factory, that the griev-

(Testimony of Mitchell J. Simon.)

Respondent's Exhibit No. 3-A—(Continued)
ance procedure took place at a considerably later date?

A. Yes, sir, that is in accordance with our agreement.

Q. In other words, at the time of the grievance procedure, they were already in the status of discharged employees? A. Absolutely.

Q. And they weren't discharged as a result of the grievance procedure. In other words, the grievance procedure merely confirmed the company's earlier action?

A. Was right and proper.

Trial Examiner: Is that a correct summary of the purpose of the grievance procedure as you understand it?

The Witness: Absolutely. The grievance procedure is the employee's recourse. [416]

* * *

Redirect Examination

By Mr. Macomber:

Q. You came to the San Diego plant when?

A. September 13, 1948.

Q. Was there already in force an agreement with the IAM union?

A. Yes, there was a National Labor Relations Board vote prior to when I came there and a contract in force with the IAM.

Q. Did you have anything to do with bringing the IAM into that plant? A. No, sir.

Mr. Macomber: That is all.

Trial Examiner: You may be excused.

(Witness excused.) [441]

* * *

PEGGY REDDEN

a witness called by and on behalf of the Respondent,
being first duly sworn, was examined and testified
as follows:

Direct Examination

By Mr. Macomber:

* * *

Q. When did you go to work for Essex Wire Corporation?

A. September 13 of 1949. [445]

Q. How long have you been, are you now a committeewoman? A. No.

Q. Leadwoman? A. Yes.

Q. How long have you been a leadwoman?

A. Oh, about a year and a half, two years.

Q. In any particular department or departments during that period of time? A. 103.

Q. 103 generally encompasses what operations there in the factory?

A. The harness department.

* * *

Q. Now, as a leadwoman, from whom do you derive your authority and, by that, I mean from whom do you take your [446] orders or instructions? A. Mel Kresin.

(Testimony of Peggy Redden.)

Q. Your foreman? A. Yes.

Q. During all the time that you have been a leadwoman, has Mr. Kresin been your foreman?

A. Yes, sir, except when they put him over on the other side. Robert Ebker was there for a while.

Q. He is the gentleman to whom you are responsible? A. Yes.

Q. Does Mr. Simon or anyone else in connection with the plant come in and give you any instructions or is that all done through your foreman?

A. Well, I don't know for sure.

Q. He is the only one that comes to you directly and contacts you? A. Yes.

Q. Is that right? A. Yes.

Q. Now, in connection with those instructions, such instructions as you may have received through your foreman whether it was Mr. Kresin or this other gentleman who temporarily took his place, were you given authority to move girls about from job to job?

A. Yes, if it was seen fit to. [447]

Q. If you were seen fit to——

A. We got our orders from the foreman.

Q. With respect to moving girls under those orders? A. Yes.

Trial Examiner: Do you understand the question?

The Witness: Yes.

Q. (By Mr. Macomber): Would it be——

Trial Examiner: Just a moment. There is a

(Testimony of Peggy Redden.)

question with respect to moving the girls. What were the orders that you received?

The Witness: If a girl was needed in another job and if I had one available, why, the other leadlady would ask me if I had one and if I said yes, she'd tell Mel we had to have a girl on the other job.

Q. (By Mr. Macomber): Would it be first necessary before you moved the employee to go to Mel and clear with him?

A. Oh, yes, always went to him first.

Q. You always cleared with him first?

A. Yes.

Q. See if I understand, if there is an opening or a vacancy, you would go to your foreman?

A. Yes.

Q. Who was Mel Kresin, and explain to him about the vacancy and he would furnish instructions to do something about moving the girls, is that right? [448]

A. Yes.

Q. Were you authorized to do it on your own without consulting him?

A. No.

Q. That is what we want to find out. In a general way, what were your functions as a leadlady, what were your duties as laid down to you by Mr. Kresin or any of your foremen?

A. To see that all the girls had work at all times and if there was anything that was needed, why, Mr. Kresin would let us know and what he told us to do, we done.

Q. I see. You are familiar with the operation of the taper machine?

A. Yes.

(Testimony of Peggy Redden.)

Q. The rotary machine?

A. One and two, both of them.

Q. Did you ever work on the rotary machine yourself? A. Yes, I did.

Q. Are you familiar with what is known as the take-off operation? A. Yes.

Q. The so-called wire operation? A. Yes.

Q. And the taper operation? A. Yes, sir.

Q. Would you describe the take-off operation as being [449] particularly difficult or onerous?

Trial Examiner: Specify which rotary conveyor.

Q. (By Mr. Macomber): Of the No. 1, the No. 1 rotary take-off operation, particularly, is that a difficult operation? A. No, it isn't difficult.

Q. How does it compare with the other operations on the same machine as to difficulty of operation?

A. I don't understand you there.

Q. Is it harder on the take-off position, harder than the taper position or the wiring position?

A. No, I wouldn't say so. You could make it either way. That would be up to the girl herself.

Q. Well, now, I'm calling your attention particularly to the 10th day of February, 1954, which is this year and I will ask on that day whether a woman by the name of Frances Miranda came to work. A. No.

Q. Frances Miranda—if I may lead through preliminary matter—had been working on a so-called repair operation, hadn't she? A. Yes.

Q. How long had she been on repair?

(Testimony of Peggy Redden.)

A. Oh, I don't know for sure.

Q. Roughly? A. Couple months. [450]

Q. If you are familiar with that operation, can you tell us, or the Examiner, generally, what the repair operation, so-called, consists of?

A. Well, a harness comes off the big conveyor, it comes down to the checkers and they check it and if there is a terminal missing or a sleeve or switch, they put a white tag on it and the repair girl takes it and she repairs it and then she pushes it on through and it goes to the packer.

Q. Is it a job which requires experience or can just anybody do it?

A. I wouldn't say anybody could do it. You have to know the harness and the wires.

Q. Some experience is necessary? A. Yes.

Q. Do you know whether or not Ann Hamilton had worked at the repair station?

A. Not by herself, she didn't.

Q. Tell me what you know of her connection with the repair station.

A. Let's see, as far as I can remember, she was down there helping out repairing.

Q. Do you know how extensive her experience as a helper was? A. She was all right.

Q. I didn't ask whether she did a good job or bad job as a helper. I just want to know whether you know, and if you don't, [451] you can say so, whether you know how long she worked as a helper down there.

(Testimony of Peggy Redden.)

A. Oh, it wasn't over a couple days, one or two days.

Trial Examiner: In a single stretch or at intervals?

The Witness: No, she wasn't there steady. For the taping machine, the job that she was on, if she was out of wire, sometimes we put a girl up there on the repair table to help out.

Trial Examiner: Normally, how many persons work on repair?

The Witness: One.

Trial Examiner: So that the helper would be a departure from the normal procedure in the sense that she would be an extra person above and beyond the usual requirement for the repair station?

The Witness: Not all the time two girls down there.

Q. (By Mr. Macomber): What does the helper do that the regular girl doesn't do or vice versa?

A. Sometimes the different harnesses, more terminals are coming and one girl can't keep up and so we put another girl down there to help her so it won't stack up.

Q. In any event, on February 10, the day that is the center of inquiry, you had in mind such experience as Ann Hamilton may have had, may not have had at the repair station, is that right, or don't you understand my question? [452]

A. No.

Q. Were you aware on February 10th of such experience as Ann may have had at the repair table?

(Testimony of Peggy Redden.)

A. She couldn't have gone down there and taken completely over.

Q. That is it. Now, tell us about that, you are telling me now that in your mind at that time she couldn't have gone down and taken over that job?

Tell us why you believed that on February 10.

A. Because at that time she didn't know the complete harness in order to take the complete job of repairing over. To my knowledge, you have to know the wires and the complete harness.

Q. In your opinion, she just didn't know it?

A. No.

Q. In what respect had her experience been limited, in your opinion, so she didn't know the full harness? A. On the tape machine.

Q. Now, on February 10, did you have occasion some time to transfer Ann over to Conveyor No. 1?

A. Yes.

Q. Will you relate to the Examiner and to this court of inquiry what the circumstances were that led to that transfer and, when I say the transfer, just tell me what happened to you in the chain of events?

Who—let's put it this way, the first thing, I take it, [453] that this Frances who worked on the repair machine did not show up, is that right?

A. Yes.

Q. And you were the one who first determined her absence or did somebody come and advise you of her absence?

(Testimony of Peggy Redden.)

A. I just don't remember right there but I knew she wasn't there.

Q. All right. And this was about 8:00 o'clock or so at the regular starting time that you learned that she was not there? A. Yes.

Q. Learning that she was not there, I suppose you concluded you would have to put somebody in her place, is that right? A. Yes.

Q. Now, did you then go and see her foreman about who you were to put there in her place?

A. I went and told my foreman we didn't have no repair girl.

Q. You told Mr. Kresin? A. Yes, sir.

Q. What did he say, if anything, to that?

A. He said we would have to find one and put one there.

Q. All right. Did he say anything further at that time?

A. Not at that moment, right then. We waited until the second bell rang which is the 8:00 o'clock and all started to work.

Q. Then what happened? [454]

A. There was another girl. I don't remember right then but we did have two on the big conveyor No. 1, conveyor that was experienced on the repair table.

Q. Who were these two girls that were experienced? A. Inez Hobbs and Jo Hutchins.

Q. So, being aware of their experience, what, if anything, did you do?

A. Mr. Kresin said get Inez Hobbs down there.

(Testimony of Peggy Redden.)

Q. Kresin told you to get Inez Hobbs?

A. Yes; take her off the big conveyor and put her on the repair where she was experienced.

Q. Now, of your own knowledge, what experience had Inez Hobbs had previous to February 10 at the repair station?

A. She had been working on the conveyor, knew the harness and had been on the repair table before.

Q. Do you know how extensive her experience had been on repair? A. No, I don't.

Q. You just knew she had had experience?

A. Yes.

Q. Go on and tell me what happened then.

Trial Examiner: Before going further, you testified your first conversation with Mr. Kresin was at or about the time of the 8:00 o'clock bell. When were you advised by Mr. Kresin that Mrs. Hobbs would be assigned to the repair table? [455]

The Witness: Oh, I don't know for sure.

Trial Examiner: Approximately?

The Witness: I don't know. Approximately, it was after 8:00.

Trial Examiner: You can't say how much after?

The Witness: No, I can't; I can't remember.

Trial Examiner: Very well.

Q. (By Mr. Macomber): After the foreman told you to assign Inez to the repair station, was there any discussion between you and the foreman as to who would take Inez' place on the conveyor No. 1?

A. He had asked me who I had at the time who

(Testimony of Peggy Redden.)

could work on the big conveyor and Ann Hamilton was the only one. She had been over there before.

Q. He asked you then who you had available?

A. Yes.

Q. And you told him that Ann was the one that was available? A. Yes.

Trial Examiner: When was this question asked at the time when you first told him of the vacancy on repair or at the time when he suggested the assignment go to Mrs. Hobbs?

The Witness: Well, after we knew that they was going to put Inez down on the repair table.

Trial Examiner: I see. Go ahead.

Q. (By Mr. Macomber): Did you have any further conversation [456] with Mr.—I will call him your foreman so I don't confuse you—did you have any further conversation with your foreman about this?

A. He said put Ann on the big conveyor. I went down and told Ann to come with me and she did. I took her down to the big conveyor and I went over to Betty Cave because I didn't see Helen Greenwood at the time and she said that Helen was down relieving and I went down and told Helen that they were putting Ann on the take-off, that Debbie was to go down to the repair table. And as I did that, Helen motioned and the girls had already knew ahead of time that——

Q. When you put Ann on the take-off position, was there any further conversation between you and Ann relative to her going over there?

(Testimony of Peggy Redden.)

A. No.

Q. And at about what time, if you recollect, did you send her over there?

A. Close to 9:00 o'clock.

Q. Did you have any further conversation with Ann up until the break at about 10:00 o'clock?

A. No.

Q. Were you in the immediate vicinity of the rotary No. 1 during this intervening one-hour break?

A. No, I had my little conveyor, the No. 2 conveyor, and the tapers to watch. [457]

Q. You were not watching the No. 1 conveyor during that period of time? A. No.

Q. Was there any request from Ann for gloves or anything of that kind when you put her on that take-off position of the No. 1 conveyor?

A. I don't know.

Q. Was there any request of you, I'm only asking you of your own knowledge? A. No.

Q. There was no request and had she or had she not, according to your own observation, worked on take-off position No. 1 on the No. 1 conveyor?

A. No; she had never worked on the take-off position on No. 1.

Q. Never worked on the take-off station but had worked on other stations on the same conveyor No. 1? A. Yes.

Q. In a general way, how extensive had been her experience on Conveyor No. 1, how long had she worked on it? A. Oh, two or three weeks.

(Testimony of Peggy Redden.)

Q. Now, did you work, did you have occasion to come back to the rotary conveyor No. 1 during that one hour or were you busily engaged on other activity that you just described?

A. I was busy. [458]

* * *

Q. Do you know a Eunice Ford? A. Yes.

Q. Was Eunice Ford on duty, if you recall, the morning of February 10? A. I think so.

Q. It was likely that she was there, anyway?

A. Yes.

Q. Did you have a conversation with her some time between 8:00 and 9:00 o'clock in the morning, if you recollect?

A. No, just telling her what we were running that morning.

Q. Did she say something like this to you in any conversation that you presently recollect, that is, between 8:00 and 9:00 o'clock in the morning, did this Eunice Ford say to you, "Let's put Ann on the conveyor. She is sitting on her dead butt"?

And did you then say, in effect, "I will go and see about it"? A. No. [459]

Q. Did you recall any such statement with her?

A. No.

Q. Did you thereafter following any such conversation go in and see Mr. Simon?

A. I didn't even know Mr. Simon was in the plant that morning.

Q. Did you come back to this Eunice Ford and

(Testimony of Peggy Redden.)

say to her, "Simon said, 'I don't give a damn what you do' " ? A. No.

Q. Did you have occasion at any time before this circumstance of the 10th of February, have occasion to go in and discuss with Mr. Simon whether or not you were going to put this woman, Ann Hamilton, on that job?

A. I never went into Mr. Simon's office and discussed the work of the factory with him.

Q. And that includes Ann Hamilton on the 10th day of February, or anytime prior thereto?

A. Yes.

Q. Is that right? A. Yes.

Q. Now, were you present in the court yesterday when Mrs. Evans testified? A. No.

Q. You recall an operation there where there are tags placed on the wires for approval or nonapproval of the operation?

A. Yes, little white tags, the checkers have. [460]

Q. Do you recall any occasion when you tore those things off in the presence of Mrs. Evans?

A. No.

Q. (By Trial Examiner): There was testimony yesterday about red tags. Are red tags used for any purpose?

A. The inspectors, Alex, Mr. Gordon, and another man there, I don't recall his name, they are the ones that put on the red tags for rejected work and the only ones that can take them off.

Q. Well, now, is there—is a difference between the significance of red tags and white tags?

(Testimony of Peggy Redden.)

A. To me, there is.

Q. What is the distinction?

A. White tags, the checkers put them on and the repair girl takes them off and the harness goes on down the line to the packer and if there's a red tag on it, then either Mr. Kresin or Mr. Gordon check the work and then we have to get the inspector for that.

Q. I see. Do those go in the normal course of events to the repair table or looked at first by Mr. Gordon or Mr. Kresin?

A. No, sir; generally looked at first.

Q. I see. And what would be the, oh, I gather from what you tell me that the checkers would put on a white tag in the event of a missing terminal or some other difficulty that the repair girl normally would be expected to correct? [461] A. Yes.

Q. What occasion calls for the addition of a red tag, what would be, what would have to be wrong, if anything, before a red tag would have to go on as distinguished from a white tag?

A. Well, if there's a—a lot of harnesses coming down or on other small jobs coming down and there's a terminal missing on quite a few of them, she most generally holds them up to find out why so many are missing.

Q. Well, would I understand you correctly that a red tag would indicate a more serious repair problem that would require the attention of the supervisory personnel personally? A. Yes.

Trial Examiner: Very well. Go ahead.

(Testimony of Peggy Redden.)

Q. (By Mr. Macomber): Would there have to be a major defect for the red tag normally to be added?

A. No. As I said before, if there was a lot of terminals, which is most generally the cause.

Q. But, in any event, did I understand you to say it isn't your function to make such inspection?

A. No.

Q. Or pass approval or disapproval?

A. No; I'm not checker or inspector.

Q. Do you recall some time prior to February 10, 1954, when the question of controversy between the United Mine Workers and the IAM when the campaign started to set in? [462]

A. Yes, there was campaigning around there.

Q. When did that commence?

A. After the holidays.

Q. It would be after the Christmas holidays?

A. Yes, sir; New Year's.

Q. What form did such campaigning manifest itself?

A. Well, there was a lot of talk and Mrs. Evans at one time had asked me, she had called me up there about something. I don't remember right now what it was and in the same conversation, she had asked me what I thought about the United Mine Workers and I told her I didn't like it, that I was satisfied with the union that we had in. I couldn't see any sense of anything else coming in the plant.

Q. That was the conversation you had with Mrs. Evans?

A. Yes.

(Testimony of Peggy Redden.)

Q. Did you have any further conversation with Mrs. Evans?

A. Off and on about work and family life.

Q. And in what other forms did this campaign manifest itself? I'm not asking you with relation, particularly, to the activity of either Mrs. Hamilton or Mrs. Evans, just generally through the plant, were there buttons, was there conversation, was this buzzing union activity and so forth going on? Give us some general idea.

A. There was buttons popping upon different ones and talk going around the plant and little white tags coming down on [463] the overhead conveyor. Anything to keep the girls in an uproar.

Q. When did that start?

A. January and February.

Mr. Grodsky: Just a second. May I have the last complete question and answer read?

Trial Examiner: Let the record be read.

(The record was read.)

Q. (By Mr. Macomber): I show you No. 5, General Counsel's No. 5, is that the kind of doo-hickey that you see coming down from time to time on those conveyor belts? A. Yes, some.

Q. How frequent were those things or objects similar to that observed by you to come down on conveyor belts?

A. Well, I don't know how many came down but it was enough that the girls on the taping ma-

(Testimony of Peggy Redden.)

chine and graters at the time saw them and their attention was called.

Q. Did you ever put any on? A. No, sir.

Q. Did you ever see anyone put one on and send it down? A. No; I didn't see anybody.

Q. Did you see anybody put them on?

A. No.

Q. Here are a couple little doohickies that you handed me, a couple little cards upon which there is some miscellaneous [464] writing.

Where did you obtain those?

A. Off the overhead conveyor.

Q. Which overhead conveyor?

A. The one that carried the harnesses to the oven, around to the checkers and repair girl and packers.

Q. Is that the conveyor that passes by Mrs. Evans' station? A. Yes.

Q. When did you obtain those cards, approximately?

A. Well, it was right after we knew that the Mine Workers were really trying to get into the plant.

Q. All right. This is illustrative of the sort of thing that would come down, is that right?

A. Yes.

Q. Do you know whose handwriting appears on these? A. No, I can't see.

Q. Do you know who put these documents on the conveyor? A. No.

Mr. Macomber: For the sake of the limited pur-

(Testimony of Peggy Redden.)

pose of the kind of stuff that came down the conveyor, I will offer this as Respondent's next numbered exhibit. I offer them collectively.

Trial Examiner: Very well. They may be designated as Respondent's 4-A and 4-B.

(Thereupon, the documents above referred to were marked Respondent's Exhibits No. 4-A and 4-B for identification.) [465]

Q. (By Mr. Macomber): My sight is not so good, particularly without glasses. I wonder if you would read this?

A. "I'd rather be a Mine Worker and make money than an IAM and give money."

Q. That appeared on the back of that card. Is there anything on the other side of that of significance? A. "Why don't you quit."

Q. All right. Now, read what is on the back of that.

A. "You might track along with us. Ha! Ha!"

Q. That was the sort of thing, in a general way, together with the Government's exhibit last mentioned, that from time to time would find itself on those conveyors, is that right? A. Yes.

Q. Now, I will show you a bulletin, dated the 14th of January, 1954, addressed to all employees, and ask you whether you have had occasion to see that bulletin on the plant premises, on the bulletin board or elsewhere on or about the plant?

A. I don't remember of especially seeing this one.

(Testimony of Peggy Redden.)

Q. If you don't remember seeing that one, do you remember seeing any bulletin down there at the plant that pertained to the question of campaigning on company time or company premises?

A. No, I have heard that there was supposed to be no campaigning whatsoever.

Q. You had heard that by word of lip from other employees? [466] A. Yes.

Q. Had you heard that from your foreman or what source?

A. Through the girls at the plant.

Q. Now, there's another document entitled, "Rules and Regulations," Respondent's No. 1. Did you at any time prior to this day see any rules or regulations posted there on company premises?

A. I don't remember.

Q. You don't remember whether you did or did not, is that right? A. No.

Mr. Macomber: You may cross-examine. [467]

Cross-Examination

By Mr. Grodsky:

* * *

Q. I will rephrase it, it's a little awkward. I will do better than rephrase it, I will abandon it.

Do you recall when the employees put on buttons in the plant for the first time?

A. It was after the holidays.

Q. I didn't mean by date. But it was after the holidays. Now, at the time that the employees put

(Testimony of Peggy Redden.)

on buttons, do you recall whether some employees were wearing IAM buttons and other employees were wearing Mine Workers buttons, in other words, had both kinds of buttons been worn in the plant, is [483] that right?

A. Yes; the IAM had been wearing the buttons all the time.

Q. When you say the IAM had been wearing buttons all the time, do I understand by that you observed IAM employees, members of the IAM who were wearing their buttons, say, in December and in November of 1953?

A. Ever since we have had the union down there, we have had buttons to pin on our employees or the pencil-type buttons and somebody in the plant has always had them on where they could be seen at all times.

Q. Was there any, what was the practice of the employees, let's say, before the holidays? Did most employees wear their buttons or did most employees not wear their buttons, or was it about half and half?

A. Well, I couldn't say.

Q. Well, you observed, didn't you?

A. Well, I didn't count them or anything.

Q. All right. Now——

A. I wouldn't say either half way or——

Q. Was there a substantial number who were wearing their buttons before the holidays?

A. There was enough around to be noticed.

Trial Examiner: Will you describe the button that was worn before the holidays?

(Testimony of Peggy Redden.)

The Witness: Red buttons, as big as your watch there. [484]

Trial Examiner: Let the record show that the witness indicates a conventional size Elgin pocket watch which I have on the table before me.

Mr. Grodsky: Approximately the size of a silver dollar.

Trial Examiner: I would so describe it, yes.

Q. (By Mr. Grodsky): Now, was there any increase in the number of buttons worn by the IAM people after the holidays? A. Yes. [485]

* * *

Redirect Examination

By Mr. Macomber:

Q. One question, perhaps I should have asked on direct examination.

Where do you work in relation to Loraine Evans; where was your station with relation to Loraine Evans' station?

A. My place was down the taping line at the little conveyor.

Q. At any time prior to the discharge of Loraine Evans, were you aware of any disputes or bickering or quarrels down in the general area, regardless of merit? I'm not asking you to pass on the merit of any argument down there.

I want you first to tell me whether you noticed any dissension down in that general area?

A. Yes. [486]

(Testimony of Peggy Redden.)

Q. Describe for the Examiner the extent and nature of that dissension as it came to your attention.

A. Well, it seems like after Loraine got down there in that area there was always an uproar and the girls would come to me.

Trial Examiner: I hate to interrupt, but I'd like to ask you, Mrs. Redden, to be as exact as possible. I realize that very often in describing situations of this kind we fall into the habit of using a word describing the situation that conveys the same meaning to us but may not convey the same meaning to other people.

The word "uproar" conveys a certain meaning to me. I have no idea what it will convey to people reading the testimony or the printed page. Can you describe the situation as exactly as possible?

Mr. Macomber: You may take your time. You don't have to do it in one sentence or anything of that kind.

Trial Examiner: Certainly.

Q. (By Mr. Macomber): Just tell us what you know of the history of any difficulty down there. Don't try to characterize in any one word; tell us when Loraine came in there what happened, what you have seen or heard.

A. Well, after Loraine came into that area, it seems like trouble started. I mean irritating the girls, constantly picking on them and there was always fighting going on in the corner. [487]

Q. What kind of fighting? When you say "fight-

(Testimony of Peggy Redden.)

ing," do you mean argument or physical combat or what? That is what the referee wants to know, tearing of hair among the girls, shouting at each other or what?

A. Just words of you shouldn't do this or you shouldn't do that and running to Mr. Gordon about this here was wrong and that was wrong, the girls were bothering her, and some of the girls, Ellen Graesch and Rita Frey, had come to me and told me that they just——

Mr. Grodsky: I move to strike that before it's even told on grounds of hearsay.

Trial Examiner: I will permit the witness to testify to what communications were made to her to establish the fact of the communications.

Mr. Grodsky: All right.

The Witness: ——that she just couldn't work with Loraine. And I had asked them why they couldn't and they just said they couldn't get along with her.

Q. (By Mr. Macomber): Did this happen long before any campaign, union campaign, started there in December? A. Oh, yes.

Q. When did this trouble start back in that corner in that department?

A. Right after she came to work.

Q. That would have been when, early in '53?

A. Yes. [488]

Q. Now, do you know of anything else of your own knowledge respecting any difficulties that Loraine had back there other than that which you have

(Testimony of Peggy Redden.)

already described to us, a fight or circumstance involving her that you haven't told us about?

A. I know she was called into the office.

Q. How do you know that? Were you there when she was called?

A. Yes, because I had to go and bring up one of the other girls to the office.

Q. What other girl, on what occasion and when? A. Ellen, Rita.

Q. Was that on some occasion of mediating a dispute in the office?

A. Yes, and they called Loraine in there. She wouldn't go in by herself, always be another girl involved in it that would have to go in.

Q. On those occasions where there would be mediating disputes and calling girls, do you know from your own experience, your own observation, what effect that would have upon the other girls working there as to their efficiency?

I'm not asking technical questions, company statistical output or anything like that. Did they seem to be working as diligently?

A. No, they couldn't because there was that irritation around [489] them all the time.

Mr. Grodsky: I will object to that as a conclusion of the witness and not responsive.

Trial Examiner: Sustained.

Q. (By Mr. Macomber): Whether they could have or couldn't have, what was your observation as to whether they did, did they seem to work as

(Testimony of Peggy Redden.)

diligently and assiduously as they would when the disputes were not in progress?

A. If everything was running smooth, why, the rest of the girls was all right. But as soon as something came up, why, naturally, that is going to make them stop to see what's going on.

Q. How frequent were these disputes commencing with Loraine's employment there? Were they a daily occurrence, monthly occurrence, weekly occurrence, hourly occurrence, if you can characterize, how frequent was this fighting or bickering or whatever it was as observable to you back in that department?

A. Well, there was always something going on in that area all the time. All I can say, it was just topsy-turvy back there.

Q. Was this true of any other area in the plant of which you were aware?

A. No; that area back in there by the repair table where Loraine was.

Q. About the time that this union dispute in the plant [490] started to develop back in January, did you observe anything of the conduct or activity of this so-called J. C. Hamilton, who is the brother of Mrs. Evans?

Mr. Grodsky: I'm fascinated by that "so-called" in that sentence.

Trial Examiner: I assume he refers to the fact that he had been referred to by his initials in this hearing.

Mr. Grodsky: All right.

(Testimony of Peggy Redden.)

The Witness: Yes, I noticed that J. C. was doing more running around the plant and he was making boxes and he always had quite a few boxes made up ahead which hid the drinking fountain alongside the rest room over there. And he always watched who went over there, such as Vivian Moore and Jimmie Juhl, and I can't think of his name, a tall, thin guy.

Mr. Grodsky: Pipmeier?

The Witness: Pipmeier. When they was over there to the drinking fountain, he was over there and it wasn't 10 minutes, they talked 15 and run into a half hour sometimes.

Q. (By Mr. Macomber): Would this be on company time? A. This was on company time.

Q. You never overheard the conversation?

A. No, I didn't. And another time there was, I noticed and so did Dorothea, there was a strange man in the plant talking to J. C. We hadn't seen him before.

Q. You don't know who this man was? [491]

A. We didn't at the time. Mr. Harms was on the floor at the time. He got word and went over there and the man left and we found out later it was a United Mine Worker.

Mr. Grodsky: Mr. Examiner, I don't wish to interrupt this but on several occasions there have been some hearsay statements. I don't move to strike them but solely because I know the Examiner is experienced and knows how properly to treat hearsay that is admitted. I don't want to waive any

(Testimony of Peggy Redden.)

objection as to hearsay by being silent. That is all.

Trial Examiner: Very well. I have that in mind.

Q. (By Mr. Macomber): With respect to union buttons, did you see the United Mine Workers members or did your own members at any time here recently remove their buttons or anything of that kind, pass their buttons around?

A. No.

Q. What campaigning or electioneering on behalf of either of these unions have you noticed other than that which you have already told us about for this membership?

A. The United Mine Workers buttons were white and first you'd see them on one, then you wouldn't and then you'd see it on somebody else. I don't know if they all had one or if they passed one around.

Mr. Macomber: You may cross-examine.

Mr. Grodsky: I think maybe we ought to take a short break.

Trial Examiner: Very well. We will recess for five [492] minutes.

(Short recess taken.)

Trial Examiner: The hearing will be in order.

Recross-Examination

By Mr. Grodsky:

Q. Mrs. Redden, you told us about the various things you observed J. C. doing at the plant.

Now, did you talk to your foreman about that?

(Testimony of Peggy Redden.)

A. About J. C., I don't recall.

Q. Did the fact that he had those boxes built up near the fountain inconvenience you in any way?

A. No.

Q. Did it inconvenience any of the employees?

A. Well, they were put too close to the aisle.

Q. Did you complain about those boxes to any representative of management at any time?

A. I don't know if it was to anybody in management for anything, but I do know I told Dorothea and Dorothea called my attention to it, too, that at one time there was a tunnel in the boxes with all kinds of signs which led over to the water faucet at the time the United Mine Workers were in there.

Q. Do you know whether that tunnel was ever brought to the attention of management?

A. Oh, could have been seen, anybody could have saw it.

Q. How long did that continue to exist, how long did you see that in the plant? [493]

A. A day or two.

Q. And how long were these boxes piled up near the water fountain?

A. I think they were five boxes high and I'd say about 10 to 12 rows.

Q. Now, do you know how long this particular condition continued to exist?

A. Quite a while.

Q. You mean a couple of weeks or longer?

A. It was longer than that.

(Testimony of Peggy Redden.)

Q. Do you know whether Mr. Hamilton had prepared those boxes himself?

A. He makes the boxes for the packers.

Q. Yes. Do you know whether he did this under instruction from his foreman?

A. No, I don't.

Q. Now, you testified about a couple of girls, Alice and Ellen, coming to you and complaining, is that correct?

A. Ellen and Rita.

Mr. Macomber: Helen or Ellen?

The Witness: Ellen.

Q. (By Mr. Grodsky): What were they complaining about?

A. That they didn't, couldn't work with Loraine.

Q. Do I understand your testimony to be that you went with them in to see some representative of management about that? [494]

A. I didn't go in with them. I went to the foreman and told him.

Q. You went and told that to the foreman?

A. Yes.

Q. Did you testify about your having gone in once in connection with some dispute to Mr. Simon's office at which time Loraine was involved in some kind of dispute?

A. I didn't go into the office at all for Loraine.

Q. Either for or against Loraine?

A. No.

Q. My notes are a little confused, then. Did you

(Testimony of Peggy Redden.)

testify that she had been engaged in some kind of disputes as a result of which she went to the office?

A. I said that I knew she had went to the office.

Q. You knew that but you hadn't gone in yourself?

A. No.

Q. And you don't know what the problem was in question, do you?

A. Just about fighting with the girls.

Q. Now, do you know which girls were involved in the time that you are thinking about that she went into the office?

A. I knew she went in there on account of Ellen and Rita, that they asked to go in.

Q. Now, do you know what the dispute was in that connection?

A. No. [494]

Q. Do you know if the dispute was between Ellen and Rita?

A. My understanding was that it was between Ellen and Loraine and Rita and Loraine.

Q. You weren't present, though?

A. No, I didn't go into the office.

Q. Do you know of any other dispute with regard to which Loraine went into the office?

A. Over Vina Holst.

Q. You didn't go into the office on that occasion, either?

A. No.

Q. You don't know the nature of the dispute?

A. No.

Q. Do you know of any other disputes between any of the girls in the plant which girls have gone into the office not including Loraine?

(Testimony of Peggy Redden.)

A. The girls I know went in the office with Loraine about fighting.

Q. What I'm asking you now was she always involved in disputes which wound up in the office?

A. Yes.

Q. Now, you know Loretta Brown, don't you?

A. Yes.

Q. She was working on the repair table which was generally under your supervision at the time that she was discharged?

A. I wasn't there the day she was [496] discharged.

Q. I'm not talking about that day but during that period immediately preceding her discharge.

A. They was working on the repair table, yes.

Q. Did you observe her wearing the Mine Workers button? A. No, not Loretta.

Q. Do you recall having a discussion with her in which you told her she'd better take it off?

A. No.

Mr. Grodsky: No further questions.

Mr. Macomber: Did you ever tell anybody to take off their Mine Workers button?

The Witness: No.

Mr. Macomber: That is all. [497]

* * *

MELVIN KRESIN

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Macomber:

* * *

Q. (By Mr. Macomber): You have been referred to frequently in the evidence as "Mel," right? A. Yes.

Q. You are one of the foremen at the Essex Wire Corporation and are now and have been a foreman there how long?

A. Since February 11 of '48.

Q. And as such foreman, on or about February 10 of this year, what was the general area of your duties, will you describe them?

A. Overseeing the finished assembly lines in the section, in charge of Department 103.

Q. Did you have any assistants, assistant foremen?

A. Not at that time; three leadwomen. [498]

Q. And was there under your jurisdiction this lady who just testified as Redden, was she one of the leadladies? A. Yes, sir.

Q. What was Betty Cave?

A. Betty Cave worked as relief girl, wire girl.

Q. What were the duties of Helen Greenwood?

A. Helen Greenwood was a wire girl and relief girl.

(Testimony of Melvin Kresin.)

Q. Now, was Loraine Evans in this department over which you were the foreman?

A. Yes, sir.

Q. And what was your relationship, if any, to the foreman who testified here the other day, Gordon, Mr. Gordon, was he a foreman with equal authority in the general area or was he under you or above you?

A. Only over the checkers.

Q. He was foreman of the checkers?

A. That's right.

Q. Did you have any jurisdiction over him?

A. Well, no, I wouldn't say that I have.

Q. And a chap by the name of King, who has been referred to, he was what?

A. I was working under him. I took my instructions from him.

Q. What is King's first name?

A. Kenny. [499]

Q. Did he have jurisdiction over the checkers to some extent?

A. Well, I would say so.

Q. Would or would not?

A. I would say he did have.

Q. And that was the department in which Loraine Evans was also in, is that right?

A. Yes.

Q. Now, on the 10th day of February, and I direct your attention specifically to that date, that being the date that Mrs. Hamilton left or somehow went off the job, calling your attention to that date and about 8:00 o'clock in the morning thereof, or

(Testimony of Melvin Kresin.)

thereabouts, did you see Mrs. Hamilton, see her in the morning?

A. Yes; I saw her on the tape machine.

Q. Was it called to your attention that there was a vacancy in the repair table?

A. Yes, sir.

Q. And who called that matter to your attention? A. Peggy Redden.

Q. And when she called it to your attention, what, if anything, did you do or say to Peggy Redden?

A. I told her I would check to see who we could put on the job that was capable to take care of the job.

Q. What, if anything, did she say?

A. I think I left her at the spur of the moment and I come [500] back to her and we decided we would take Debbie off the conveyor and replace Debbie.

Q. You say "we decided"?

A. I had told her that we would do that.

Q. Let me get this straight. You told Peggy that you would move Ann over to the conveyor, is that right?

Trial Examiner: Let the record be read as to the witness' response.

(The answer was read.)

Trial Examiner: That is what I wanted to hear.

Q. (By Mr. Macomber): You say you left her on the spur of the moment and where did you go?

(Testimony of Melvin Kresin.)

A. I think I walked through the department to see who was available for that job.

Q. I see. You looked around, is that it?

A. Yes.

Q. Did you make the determination that Ann was the person who was available?

A. That's right.

Q. And you made that determination without any consultation with Peggy, is that right?

A. Yes, sir.

Q. And after you made that determination, you went back to Peggy? A. Yes. [501]

Q. And you told her she could use Ann, is that correct? A. That's right.

Q. Now, then, what happened next?

A. Peggy took Ann off the tape machine and she was taken down to the big conveyor.

Mr. Grodsky: Excuse me, I have very great difficulty in hearing the witness. Will you please speak up?

The Witness: Peggy took Ann down to the big conveyor and went down and told the leadwoman on the big conveyor which is Helen Greenwood that she had a girl for her.

Mr. Grodsky: May I interrupt at this point? I suspect there is some hearsay.

Mr. Macomber: I was going to develop that myself. I don't want any hearsay in here, either.

Q. (By Mr. Macomber): Did you observe that, all of this, yourself, did you see when she walked

(Testimony of Melvin Kresin.)

down with Ann or is this something somebody told you?

A. I can't say I stood right there and saw her go over when I instructed her.

Q. I want you to know that through all my questions and through all of counsel's questions, certainly the Examiner is interested in only knowing what you saw and what you heard. If they want to know what somebody else told you, they will ask specific questions. You try to limit yourself. I realize it is difficult, to what you saw and what you heard. [502]

With that in mind, you went back and you told Peggy to take Ann, is that right? A. Yes.

Q. Did you then see what Peggy did with Ann?

A. No, I didn't.

Q. When was it—next, did you see Ann go over to the conveyor belt?

A. I saw her working on the conveyor belt.

Q. Did you see her walk over there and assume any position? A. No.

Q. Did you tell Peggy to what job, what specific job over there on the conveyor Ann was to be assigned to or was it just left vaguely the conveyor?

A. Well, filled in wherever we was short, a girl that happened to be absent, the station that was short.

Q. Did you direct her to put her on any particular station or did you just say take Ann?

A. As I recall, I told her to put her on take-off.

(Testimony of Melvin Kresin.)

Q. Do you know what the practice was with respect to that station at that time, whether take-off stuck to the one job or whether there was any rotation?

A. Well, here was some rotation. We had quite an absenteeism and we usually, I picked the girls from places where I could spare them to fill in. This was our problem to keep it filled with girls. Girls would be out and we would [503] take them from other jobs to fill in.

Mr. Grodsky: I move to strike the answer on the grounds it is not responsive.

Trial Examiner: I will permit the answer to stand.

Q. (By Mr. Macomber): What I want to know particularly is whether—when I refer to the take-off station, I don't want to know whether there is a girl stuck in this position when someone is absent.

What I want to know is whether there was any practice among these girls at that time to change position among themselves to share either hour by hour, day by day or week by week or any other basis?

A. Well, yes. They changed off to different places. When a girl went to work we usually put them where they were fitted best for the job.

Trial Examiner: Mr. Kresin, Mr. Macomber's question was, was there a routine of rotation or was it done on more or less of a basis of need? You have indicated in your testimony that shifts were made on the basis of need.

(Testimony of Melvin Kresin.)

His question is, were they done on any other basis, on the basis of a routine rotation?

The Witness: No, there was no routine.

Q. (By Mr. Macomber): Now, before Ann went over to the station, did she say anything to you or you anything to her further than you have already indicated? [504] A. No, sir.

Q. Were you there during the hour or so that intervened between this event and the break period at 10:00 o'clock? A. Do you mean at the job?

Q. Yes, were you acting and serving as foreman?

A. Yes, all through the department. I went through the particular area passing by.

Q. You were what?

A. I was passing through there.

Q. Did you observe Ann Hamilton, say, between 9:00 and 10:00 o'clock just before the break period?

A. Would you repeat that, please?

Q. Did you see Ann while she was working on the job, that is, conveyor No. 1 before the break period? A. Yes, sir.

Q. Just describe generally what you observed of her activity. A. She was doing the job.

Q. She was doing the job. Did she appear unhappy, did you notice anything unusual?

A. Just by passing by, I didn't observe anything.

Q. Did she complain to you at any time before she left, that is, before the break period, was any complaint made to you about the job or about any

(Testimony of Melvin Kresin.)

disturbance at the table? A. No, sir.

Q. Can you tell us whether or not the girls were instructed [505] that they were to complain to the foreman if any difficulties developed on the job, what was the practice in that connection? Let's say a girl was working on a job like that Conveyor No. 1 and the other girls started to torment her or even render her operation inefficient in such case, what were they instructed to do, if anything, to whom was she to complain?

A. To complain to the foreman and grievance committee.

Q. That would be the committeewoman?

A. Yes, sir.

Q. Was any complaint made to you before 10:00 o'clock? A. No, sir.

Q. By the way, had you always been friendly with Ann Hamilton, gotten along with her?

A. Yes, sir.

Q. Never had any difficulty with her at all?

A. No, sir.

Q. She was always reasonably efficient, an efficient worker, I take it? A. Yes.

Q. Now, what is your rule, if any, of proper procedure at that time with respect to girls leaving the factory?

A. Well, that depends on if they were leaving on business or sickness.

Q. Let's say leaving on sickness, let's start with that. Suppose a girl was leaving on account of sickness, what did she [506] do?

(Testimony of Melvin Kresin.)

A. I give them a pass up to the first aid room if they were sick. On business passes, the foreman, if he saw fit, could give passes to leave the factory for business on his own but as far as being sick or not feeling good, that always had to pass through the first aid room and check with the nurse.

Q. So far as you know were there any departures to that rule or those rules?

A. So far as I know, no.

Q. Now, at or about 10:00 o'clock on the morning of February 10, did you see Ann Hamilton, see her on the break period? A. Yes.

Q. Just tell us the circumstances under which you saw her.

A. The signal had rang, five-minute signal to go back to work. I happened to be in the aisle right at the tables and she met me there and told me she wasn't feeling well and wanted to go home.

I says, "Ann, I can give you a pass to go to the nurse. I cannot issue a pass to leave the factory, if you are not feeling well. You have to go through the nurse."

I told her I hated to see her leave, but if she was feeling bad, by that time she turned around and walked away from me. I told her I would issue a pass for the nurse.

Q. For the nurse. Did she make any comment when you said you would issue a pass for the [507] nurse? A. No, she walked off.

Q. Did she say anything about what was ailing her?

(Testimony of Melvin Kresin.)

A. She said, "What is ailing me the nurse cannot do anything for me."

I said, "Well, I still have to give you a pass for the nurse."

Q. After that, she just walked out?

A. She left.

Q. And did you tell her at any time, "I will make out a pass for you. You may go"?

A. I did not tell her that. I said I would make out a pass to go to the nurse. As far as leaving the factory, no.

Q. So when she left, what, if anything, did you do, was this incident reported to any of your superiors?

A. Well, I went back to the department. It was time to go to work and they said they was short a girl over there where Ann was so I went to the nurse's office to check to see if she come in to see the nurse.

Q. The nurse said she hadn't come in?

A. Then I went back to the department. She wasn't back there so——

Q. Who did you check with when you went back to the department?

A. Nobody in particular. I just walked through the department, didn't see her. [508]

Q. How long did you wait before determining that she was not coming back, when was it apparent that she was not coming back?

A. If I recall right, the nurse said she saw her go out the front gate.

(Testimony of Melvin Kresin.)

Q. Now, did you subsequently, that is, I mean, at some later period, have an occasion to report this incident to some, to one of your own superiors?

A. Yes, I told Kenny King.

Q. You told King that? A. Yes, sir.

Q. When did you tell him?

A. Oh, within a half hour or so afterward, approximately that.

Q. Did you tell him just what you told us here now? A. Yes, sir.

Q. Did you have occasion to tell any of your other superiors about the incident of Mrs. Hamilton's departure? Did you talk to Mr. Simon about it, then, within the next 24 hours or report it directly to Mr. King?

A. I talked directly to Mr. King.

Q. Did you make any determination, or King, up to that point as to what you were going to do with Mrs. Hamilton? A. No, I didn't.

Q. When did it come to your attention that Mrs. Hamilton's card was pulled? She testified the next day she came back to [509] work and her card was gone. Now, were you there the next day?

A. Yes, sir.

Q. Did you know that her card was gone?

A. Yes, Mr. King, I think, Mr. King told me that her card was pulled out of the rack.

Q. King told you that?

Trial Examiner: Did he tell it to you on the 10th or the morning of the 11th?

(Testimony of Melvin Kresin.)

The Witness: It was on the 10th, somewhere around noon.

Q. (By Mr. Macomber): Did he tell you at that time he pulled her card or was going to pull it or what? A. Well——

Q. If you don't remember, say you don't remember. A. I just don't remember.

Q. You are just not sure? A. No.

Q. What is your best recollection?

A. About the card being pulled?

Q. Yes; what is your best recollection?

A. I was thinking it might have been the next day that he told me that.

Q. She says the next day she came in there and her card was gone and, I think, she went to see you.

Mr. Grodsky: Mr. Examiner, I object to that as direct examination. I have been permitting a lot of leading and [510] suggestive questions and I have made no objections to it.

Mr. Macomber: I will withdraw the question. I thought I was expediting things. If there's an objection, all right.

Q. (By Mr. Macomber): The next day, did you see Mrs. Hamilton? A. Yes.

Q. About what time?

A. As I was on my way to work, coming in the plant, walking down the aisle to go back to my department.

Q. What person or persons were present if anyone besides yourself and Mrs. Hamilton?

(Testimony of Melvin Kresin.)

A. Well, there were several people sitting by the tables. We were directly in the center of the aisle.

Q. Do you recollect any conversation with her at that time? State what she said and what you said. If you don't know the precise words, give us the substance of the conversation.

A. She asked why her card was pulled and——

Q. What did you say, if anything, to that?

A. If I remember, I told her I didn't know why her card was pulled and she'd have to see Mr. Harms.

Q. Mr. Harms. Did you have any further conversation with her at that time?

A. No; she turned around and walked over to the table and I went on back to my department.

Q. When did you next see her, if at all, to discuss that matter with her? [511]

A. I had no more discussion with her.

Q. Let me ask you this question: When you asked Mrs. Hamilton to go over to the Conveyor No. 1, or directed that she go over, did you have any idea in mind of discriminating against her because of any union activity?

A. No, sir. I felt that that was her business or anybody else's that was working in the department.

Q. Whatever they did was their own business as far as you, personally, as far as the company was concerned?

A. I did tell Ann that I didn't want any campaigning going on on company time while we were working.

(Testimony of Melvin Kresin.)

Q. When did you tell her that?

A. That morning.

Q. What prompted that, what occasion, circumstances, provocations?

A. I had been off sick and they said there was a lot of campaigning going on interfering with the work.

Q. Somebody else told you that? A. Yes.

Q. All right. So what?

A. That was Mr. King who told me that.

Q. So?

A. So I walked through the department and saw some pins being worn, some union pins. I told her I didn't want any campaigning going on in the plant on the company's time. [512]

Q. Did you tell her to remove her pin or button?

A. I did not.

Q. You did not? A. No, sir.

Q. Did anybody with the company, King, or Simon or anybody else ever instruct you to tell people to remove their pin? A. No, sir.

Q. Did you have occasion to observe Loraine Evans after she came to work there in her relationship with her fellow employees in the department in the department in which she was employed?

A. It seems as though there was quite a lot of confusion down at that end of the department quite often. Girls that replaced on machines, taping machines, had asked to be moved off of them. Different girls asked to work away from the area, didn't want to work down there. And we did move one checker

(Testimony of Melvin Kresin.)

up to the other end of the line because she refused to work down there.

Q. Now, what, if anything, did you observe of Mrs. Evans as might bear upon the question of any disputes in which she may have been engaged, did you ever hear any arguments or see any fights in which she was involved, loud talking or anything of that kind?

A. No; there was one morning that I had passed through where they were working and this Loretta and Loraine, seems [513] as though they both said something to me about calling one another different names.

Trial Examiner: Can you place the time?

The Witness: The exact time?

Trial Examiner: Well approximately the time.

The Witness: Oh, along in the morning. I can't say exactly.

Trial Examiner: What time of year?

The Witness: This was just a day or two before they left the plant.

Q. (By Mr. Macomber): What did you observe of that dispute?

A. I told Mr. King about it, told them there was feuding going on back there and the girls were not getting along. They had been working together and helping one another out and stopped that, wouldn't help one another. So I went and told Mr. King about it.

They were not getting along so he told me to have

(Testimony of Melvin Kresin.)

them brought up to his office and he talked to them from there.

Q. Do you know what transpired there with him or was that out of your presence and hearing?

A. I was in there.

Q. What took place?

A. Well, he told them that they had had their last warning out there and they had had a warning several times but this last warning evidently was put out while I was off sick and [514] they had made a note of it and sent it to the personnel file. I was told that they were not to have any more work after that one. They had on file a note stating no more warnings.

Q. Did you see that note?

A. No, I didn't.

Q. Proceed, what further was said, if anything?

A. He told them they had been warned several times and this was it. There would be no further warning. This was it, they were through. Mr. King told them they were through because they had the final warning, because it was on paper and there would be no more warning. They were through.

Q. You told us in substance all you observed of the activity back in the area in which Loraine worked?

A. Yes; only just hearsay.

Q. I take it that you kept hearing reports concerning difficulties?

A. Yes, sir.

Q. What was your observation as to the efficiency of that department or that area during the times that these disputes were in progress?

(Testimony of Melvin Kresin.)

A. Well, I would say the girls that had to work right in that area were bothered by the confusion back there all the time, could not do their job the way it should be done.

Q. And had this difficulty, these difficulties concerning which you have been testifying, did they take place before any [515] outright break of inter-union conflict along about the first of the year?

A. Before that.

Q. Yes? A. Yes, sir.

Q. When did that commence, according to your observation with relation to when Loraine Evans' employment commenced?

A. Seemed like it started after Loraine went over in that checking section.

Q. Had there been any trouble in that section before Loraine went over there that you observed?

A. Well, no, not that I heard too much about it.

Trial Examiner: The question is whether you observed.

The Witness: No.

Q. (By Mr. Macomber): Now, along about the first of the year or thereabouts, or you tell me, did there start the beginning of a campaign between these two unions that are the subject of our discussions here?

Mr. Grodsky: I will object to the form of the question.

Mr. Macomber: It is awkward. I will withdraw it.

Mr. Grodsky: What I have specifically in mind

(Testimony of Melvin Kresin.)

is we ought to get the witness' own testimony as to the time when it first came to his attention.

Mr. Macomber: Sure.

Q. (By Mr. Macomber): You tell us, in your own words—I [516] will leave you some room to work in here, when did you first notice an outbreak of union activity, what it consisted of, how it manifested itself, go ahead.

A. Well, it seemed as though there were certain spots in the area, for instance, the water fountain behind the boxes, a lot of gathering going on. Saw some cards wrote up, cards held up on the rack, writing on them. I didn't go and check.

Q. Who was doing this?

A. J. C. and several others.

Q. What about Juhl?

A. Yes, he was in there. I remember seeing him in there.

Q. Was that on company time?

A. Yes, on company time.

Q. Where?

A. In the plant by the water fountain and had the cards by the wall. I couldn't go see on the cards, what they was writing on it.

Trial Examiner: You say Mr. Juhl was in that area of the plant at the time the cards were being held up on the wall?

The Witness: Yes, sir.

Trial Examiner: Very well.

Q. (By Mr. Macomber): When did that start, when did that campaigning start?

(Testimony of Melvin Kresin.)

A. Oh, say, in January some time.

Q. How did it manifest itself in ways other than which you [517] have described, describe what the conduct of various employees and what the various reactions would be, if you know.

A. Several of my girls working for me asked if they had a right to wear pins. I said I had no jurisdiction over that, could wear them if they cared to.

Q. As I understand your answer, you said some of the girls said they had no right to wear pins and you told them you had no jurisdiction, they could wear them if they liked, is that right?

A. Yes.

Q. Did you ever tell anybody that they had to take off a pin? A. Never.

Q. Shortly after the outbreak of the campaigning activity, such as you have described, did you see any bulletins posted on any company bulletin boards relating to the subject of no campaigning?

A. Yes, I did.

Q. Approximately when was that with relation to the outbreak of the beginning of the campaign?

A. Well, the exact date is along the middle of January, right along after the negotiating.

Q. I show you General Counsel's 2. Do you know whether something like that was on the bulletin board at about the time that you have described?

A. This was up on the safety board. [518]

Q. You say this was up on the safety board?

A. Yes.

(Testimony of Melvin Kresin.)

Q. Where is the safety board?

A. The front part of the office, the bulletin board.

Q. Is that where the employees come in?

A. Yes.

Q. Do you know how long it was there?

A. Well, no, I couldn't say.

Q. This company rules and regulations called Respondent's Exhibit No. 1, do you recall seeing any rules and regulations posted on the board somewhat similar to that exhibit?

You don't have to read the whole thing. If you don't recognize it, just unhesitatingly say you don't recognize it.

A. There has been bulletins on first aid and how they were to go about leaving the factory, what they were to do, what procedure they were to take. I think everybody in the department is familiar with it. There were bulletins posted to that effect.

Q. Were there some other kinds of bulletins posted about rules as it pertained to leaving the factory?

A. Yes; the rules were posted that all employees were to have a pass from the department to leave the factory on business. That could be done by the supervisor or foreman but if they were to leave the factory stating that they were sick or didn't feel good, they were supposed to get a pass [519] from the nurse.

Q. Do you recall whether or not the employees first engaged by the company, if they were advised

(Testimony of Melvin Kresin.)

as to the company rules as to whether the foreman or immediate superior customarily tell them about these rules?

Mr. Grodsky: I will object to that except insofar as it was his custom to do anything.

Q. (By Mr. Macomber): Do you know whether there was a practice in the company to do that?

Mr. Grodsky: I will object to that, no proper foundation.

Trial Examiner: Overruled.

The Witness: What is the question?

Trial Examiner: Will the reporter please read the question?

(The question was read.)

The Witness: Yes, I would say there was.

Q. (By Mr. Macomber): What was the practice? A. Factory leave practice was——

Q. I don't think you understand my question. My question was, was there any custom or practice which the company had when it engaged an employee of telling them about the company rule which related to the procedure of leaving the plant?

A. I usually told the girl myself when I got a new girl, a new employee. I would tell her what the practice was.

Q. Do you know whether you hired [520] Hamilton? A. No.

Q. Do you know who the foreman was who engaged her, took her under his wing after she was employed?

(Testimony of Melvin Kresin.)

A. Well, let's see, she was hired in the office and then brought out to me. I put her to work.

Q. Do you know whether you told her about this rule as it pertained to leaving the plant?

A. That I don't recall.

Mr. Grodsky: Mr. Examiner, aren't we just tinting windmills? I think Mrs. Hamilton testified she was aware of the rules. So what's the point?

Mr. Macomber: Yes, she did. With that understanding, I won't pursue that any further. I think that is very true.

Q. (By Mr. Macomber): Now, with respect to these leadworkers, were they authorized to move anybody about from job to job without first consulting you and entertaining your authority?

A. They usually always come to me and ask if it would be all right to put a certain girl here or a certain girl there to fill in wherever they needed replacement.

Q. I see. Now, with respect to the subject of gloves——

Trial Examiner: Before we pass, you testified at the outset of your testimony here that rather than have an assistant or assistants in your department, there were three leadladies. You identified only one by name. Can you identify all three? [521]

The Witness: Peggy, Helen Greenwood, and Betty Probs.

Q. (By Mr. Macomber): Those girls themselves were engaged in production work, were they not, the leadgirls? A. Yes.

(Testimony of Melvin Kresin.)

Q. Now, with respect to the subject of gloves, do you know what the practice was with respect to gloves in connection with the take-off operation on Conveyor No. 1?

A. Well, there wasn't only the take-off that wore gloves. They wore gloves on different operations on the conveyor.

Q. What instructions, if any, did the girls have relating to gloves?

A. Usually ask me if I were in the area or ask the leadlady. The leadlady, in turn, come to me and order gloves and I get them.

Q. What instructions did they have about what they were to do with the gloves when they were through with them?

A. Turn the old gloves back to me. I turn in the old pair and get a new pair.

Q. If a girl wanted gloves on the Conveyor No. 1 operation, of whom would she make a request for gloves?

A. Either me or the leadwoman.

Q. What is necessary to physically obtain these gloves?

A. Well, have to go to the janitor's supply office and get the gloves.

Q. The janitor has the key to that? [522]

A. Yes, sir.

Q. You have to—you have the key to it, also?

A. Yes.

Q. Do you have to dig out the janitor in some way or other in order to get out the gloves, is that right?

A. Yes.

(Testimony of Melvin Kresin.)

Q. Do you know anything about the, anything first hand about the glove situation on the morning of February 10?

A. Betty Cave asked for gloves and, as I recall, I went out to get the gloves shortly after she asked for them.

Q. Do you know when she asked for them, at about what hour in the morning?

A. Well, I would say around 9:00 o'clock.

Q. And then after she made this request, what did you do?

A. I went out to find the janitor to get the gloves.

Q. And how long were you doing that?

A. I would say ten minutes.

Q. Did you find the janitor? A. Yes, sir.

Q. Did he give you the gloves? A. Yes, sir.

Q. What did you do?

A. Brought the gloves back and gave them to Betty Cave. As far as I remember, her or Helen Greenwood, the leadwoman.

Q. And you gave the gloves to them. What did you see them [523] do with them?

A. No, I didn't.

* * *

Cross-Examination

By Mr. Grodsky:

Q. Now, when Loraine first went to work for Essex Wire, were you her first foreman?

A. Yes.

(Testimony of Melvin Kresin.)

Q. And then after a while she was transferred from the job she had with you to working as a checker, is that correct? A. Yes.

Q. After she was transferred and working as a checker, did she come to you and complain about the girls working back there?

A. That I don't recall.

Q. Do you remember her telling you specific stories as to what the girls were doing back there, do you remember telling her that she ought to knock them in the head?

A. No, I don't recall that.

Q. You don't recall anything like that, you don't recall her ever telling you about the trouble that the girls back there were causing her?

A. Well, she had mentioned it a time or two, yes. The exact [524] words, I don't know.

Q. I'm not asking about the exact words, but she did mention to you that the girls back there were causing her trouble?

A. I can't say. I don't remember whether she said they were causing her trouble or whether there was trouble back there.

Q. You don't recall telling her to knock them in the head?

A. No, sir; I don't talk to people like that.

Mr. Macomber: What was your answer?

The Witness: I do not talk to people like that.

Q. (By Mr. Grodsky): Then you don't think you said that? A. No, I know I didn't.

Q. You indicated Ann was a good worker?

(Testimony of Melvin Kresin.)

A. That's right.

Q. In fact, you complimented her on her work?

A. I do all the women when I see they are doing their part and doing a good job. [525]

Q. Now, after Ann left the job that morning you had a problem of putting someone on the take-off position, didn't you?

A. Yes; I had to replace her.

Q. Whom did you replace her with, if you recall?

A. Betty Cave.

Q. Did Betty stay on that job the entire day?

A. I believe she did. [527]

* * *

Q. Are you familiar with the figures sufficiently at this time to be able to tell us whether during the months of January and February production was in any way curtailed by the union activity?

A. Well, our production had fallen off.

Q. You testified that you observed J. C. Hamilton and Juhl and Gerald Pipmeier, I believe, engaging in some activity other than working during working hours?

A. Yes, sir.

Q. During January?

A. Yes, sir.

Q. Did you call this to the attention of any foreman, their own foreman, for example?

A. I reported it to Mr. King. [536]

* * *

Q. Now, you testified that at a certain time various girls asked you about the right to wear pins.

(Testimony of Melvin Kresin.)

We have had other [539] testimony here that the IAM pins were worn right along in the plant.

Is that in accordance with your observation?

A. Yes.

Q. You have seen people with IAM pins right along? A. Yes, sir.

Q. What girls was it that asked you if they may wear pins?

A. Peggy was one girl asked me if they had a right to wear pins. If I recall, Dorothea Randall was one of them that asked if they had a right to wear union pins.

Trial Examiner: Specify which pins you are referring to.

The Witness: Mine Workers pins is what they were talking about, if I seen them.

Q. (By Mr. Grodsky): In other words, these people were not asking about the right of individuals to wear IAM pins, but were asking about the rights of workers in the plant to wear UMW pins. Your answer was that that was what they asked you.

Do you know when was that in terms of date or in terms of any other incident which may have happened? A. You mean about the pins?

Q. Yes.

A. Well, they just asked me if they were allowed to wear the pins on the job and they didn't like to work along with them if they were going to wear a different union pin in the plant.

Q. All I'm asking you is when that happened.

(Testimony of Melvin Kresin.)

Do you have [540] any recollection of the time or date?

A. Well, the middle of January, I would say, somewhere along there. I don't know the exact date.

Q. Was it after the employees started wearing UMW pins? A. Yes.

Q. Was it long after or just as soon as they put them on?

A. Well, I don't know how long they wore these pins before I came back to work. I was off sick for a month before that.

Q. I see. When did you return to work, do you know?

A. I was off three weeks. I don't remember the exact date.

Q. Would it refresh your recollection if I suggest you returned to work on February 8th? Would that sound right to you?

A. It was on a Monday.

Q. That happens to be a Monday, but don't let that encourage you. A. Yes.

Q. I just want your recollection.

A. It was on a Monday.

Q. Did I have an answer?

Trial Examiner: The witness indicated he only remembers it was on a Monday.

The Witness: The date, I wouldn't know the date.

Q. (By Mr. Grodsky): Would it help you if I suggest you came back to work two days before the incident when Ann left the plant? [541]

(Testimony of Melvin Kresin.)

A. It was the same week.

Q. When you were asked by Peggy and by Dorothea whether employees were permitted to wear Mine Workers pins, did you check with higher authority? A. Yes; I checked with Mr. King.

Q. And I presume that what you told them is what Mr. King told you, is that correct?

A. Yes. I told the girls that we could not ask them to remove the pins. That was their privilege if they wanted to wear the pins.

Q. Have you observed the girls who work in the take-off position on Conveyor No. 1?

A. You mean about the work?

Q. Yes, about how they go about doing their work? A. Yes.

Q. And will you describe for us what is involved in their job there?

A. Well, they start at one end of the jig. All the wires in individual wires, in the first place, are hooked up on the jig in position to hold them in place and when it comes around to the take-off girl, she starts to take the end of the harness, lift it up, and gets it lifted up and puts it on the overhead conveyor.

Trial Examiner: Let the record show the witness in giving that description indicated by lifting his hands, that [542] the take-off girl employed a lifting motion on at least three occasions as the witness performed the operation moving his hands from left to right and indicated by moving the

(Testimony of Melvin Kresin.)

arms in the lifting operation performed in putting the harness on an overhead conveyor.

Q. (By Mr. Grodsky): Did you observe that the girl who does that wears gloves?

A. Well, usually they ask for gloves if they want them. A lot of girls don't. I have had a lot of girls that have taken harnesses off for some time and never ask for gloves. The majority of girls who work on that station ask for gloves.

Q. Do you think it's the kind of operation on which gloves are helpful?

A. Well, if I was doing the job I wouldn't want gloves.

Trial Examiner: You would?

The Witness: I would not.

Q. (By Mr. Grodsky): May I inquire why you wouldn't want gloves?

A. Because I wouldn't feel I would have to have them.

Mr. Grodsky: I have no further questions.

Mr. Macomber: Just one question.

Redirect Examination

By Mr. Macomber:

Q. Do you know how much those harnesses weigh that come off the take-off point on Conveyor No. 1, the big conveyor? [543]

A. I would say around five pounds, somewhere in that neighborhood.

(Testimony of Melvin Kresin.)

Q. And how much do they weigh coming off Conveyor No. 2?

A. I guess a regular harness off No. 1—I never weighed one—would weigh around seven pounds.

Q. What about No. 2?

A. Three, four pounds.

Q. Now, the lifting operation, such as it is, how much do you lift?

A. I wouldn't say it was a lift. All they are doing is unhooking the wires off the peg—a peg about that long—where the terminals hook off, just unhook the terminal.

Trial Examiner: Let the record show the witness indicated by using his fingers that the pegs over which the terminals are hooked are approximately two and a half inches long and that the terminals are removed from the hooks by the lifting motion, palm upwards.

Q. (By Mr. Macomber): The lifting motion is how much of a lift, how high up does it start?

Trial Examiner: I described the witness' motion. The witness moved his hands, I should say, in an arc, approximately four or five inches.

Mr. Macomber: Right. That is all.

Recross-Examination

By Mr. Grodsky:

Q. In some instances there are more than [544] one wire, that is, more than one wire with a terminal in a given prong or position, isn't that correct? A. You mean a peg?

(Testimony of Melvin Kresin.)

Q. Yes. A. Oh, yes.

Q. And it's easier to remove them or, I will ask you, is it easier to remove them if they are put on loosely than if they are packed down?

A. It doesn't make any difference. You put the wire on and it drops down on the peg.

Q. If you have two or three or more wires on a peg, is it your experience that when you drop one on top of another one that it will go down just as far as if you were to press it down physically?

A. All the wire will drop down to the bottom of the peg on top of one another.

Q. The question that I asked you, though, is if someone were to push down on the wires, would that make a difference? A. No difference.

Q. It wouldn't make any difference, in your opinion? A. No difference.

Q. How many wires are there on the average harness—strike that. Not the harness but the completed assembly on the No. 2 conveyor?

A. No. 2 conveyor. How many individual wires? [545]

Q. Yes. A. Six.

Q. And on a number one conveyor, I understand that they run upward from about 30?

A. That's right.

Q. And am I to understand that the weight of the completed product of the No. 2 conveyor which has only one-fifth of the wires weighs about one-half of the weight?

A. I would say a little less than half.

(Testimony of Melvin Kresin.)

Q. But fairly close to half, more than a third?

A. I would say less than half. Wouldn't be a full assembly. Part of the subassembly that goes into the big harness. [546]

* * *

BETTY CAVE

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Macomber:

* * *

Q. You have worked with Essex Wire since when? A. March 30, 1953.

Q. You have been a what with them?

A. I have been a wire girl and relief girl which is assistant to the leadlady.

Q. What are you now?

A. Relief girl to the switch line. [556]

* * *

Q. All right. Now, there's been something in the testimony, I think, particularly of Loraine Evans to the effect that sometime or other prior to her discharge there was passed through the plant a petition or petitions which the girls represented to be a T.V. petition or something of that kind?

A. That is correct.

Q. Will you tell us what you know about that subject?

(Testimony of Betty Cave.)

A. It is rather humorous. We have a German woman in our group who is very fond of polka music and has interested a [564] number of the girls in our plant in the polka music, the program that is going on. They were first starting up this program and, naturally, she wanted to show that we were interested in the program so on company time we signed—it wasn't a petition, it was a piece of paper requesting for more polka programs to be on the television. That was circulated on company time without knowledge of the supervisors.

Q. So that as far as you know, it was without their knowledge? A. Yes, yes.

Q. Now, did you have any discussion with Loraine about that petition at any time?

A. I don't believe I did.

Q. Was your station, I take it from the evidence your station was relatively close to Loraine's station?

A. My actual station was not. During the course of my work I came in contact, fairly close to [578] Loraine.

* * *

It was brought to my attention that I see it. So I walked to her machine and looked at her button and asked her where her other union button was. She said it was in her pocket and I said that was a good place for it, turned around and walked off.

Q. Did you ever tell her to remove her button?

A. Never did.

(Testimony of Betty Cave.)

Q. When was that, in January?

A. It was in January. The charges were filed on that date. I believe it was approximately the 7th or 8th of January.

Q. Did you ever tell anyone to remove a button?

A. Never did.

Q. Did you ever overhear anyone with management ask anyone to remove a button?

A. No. [579]

* * *

Q. (By Mr. Macomber): You saw some company rules posted on the bulletin board, is that right? A. Yes, sir.

Q. Did you see a bulletin on the board there sometime along in January or February, you tell me when, advising the employees, in effect, that no campaigning was to go on on company premises on company time?

A. Yes, I did. It was approximately the middle of January.

Q. And when did that appear with relation to the start of this war between the United Mine Workers and the IAM?

A. I believe that was posted approximately two weeks after the starting of the campaign.

Q. How did this friction between these two unions first manifest itself, in what form did it manifest itself in the factory, as you recollect?

A. There was an awful lot of dissension. Where the needling came from, I don't know. By that, I mean that somebody was agitating all of the people

(Testimony of Betty Cave.)

not only on our side but throughout the plant. We had a man on nights who did a lot of agitating and, therefore, it just kept getting bigger and [580] bigger like a snowball.

The girls would come to me and ask if they had to work under such conditions. My only answer was, "I don't know." [581]

* * *

Cross-Examination

By Mr. Grodsky:

Q. Now, is it Miss or Mrs. Cave? A. Mrs.

Q. Mrs. Cave, you told us about one petition that came to your attention that was passed around. Do you recall another petition that was passed around during the period of this union activity? [586]

* * *

A. Yes.

Q. And what was this petition about?

A. I have no idea.

Q. You weren't asked to sign it?

A. I signed it.

Q. You signed it?

A. Yes, it was for an interview with Mr. Simon.

Q. That's right. It was for an interview with Mr. Simon. Who asked you to sign it?

A. I don't recall as anyone did. It was passed from station to station and I signed it.

Q. Do you know whether it was passed to everybody? A. I have no way of knowing.

(Testimony of Betty Cave.)

Q. You have no way of knowing? A. No.

Q. Do you remember what was written on that petition? A. I do.

Q. What was written on that petition?

A. It was typewritten that "We, the undersigned request an interview with Mr. Simon."

Q. Do you know what the interview was supposed to be about?

A. I have no way of knowing.

Q. You don't know who asked for the interview? A. Beg pardon?

Q. You don't know who asked for the interview? [587] A. No.

Q. You don't know who started the petition?

A. No.

Q. All you know is that you signed the petition?

A. That's right.

Q. At your work station?

A. Yes, I was relieving at the time.

Q. And you passed it on to the next girl?

A. It went right on the conveyor to the next girl.

Q. Did you observe what happened to it after all the girls on the conveyor had signed it?

A. I don't remember having seen it after it left my station.

Q. I see. Do you know approximately what time that petition, by the time, I mean what date, roughly? A. The date?

Q. Approximately. A. Oh, gee——

Mr. Macomber: I can take a lot of mystery out of this. I have some of the petitions. I don't have

(Testimony of Betty Cave.)

the date. It will save a lot of time asking about this. I have them here.

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

During the period of discussion off the record the document previously mentioned by Mr. Macomber as [588] being copies of the document referred to in the cross-examination have been submitted to Mr. Grodsky and he has had an opportunity to inspect them. I understand he is in a position to proceed.

Mr. Grodsky: I wish to offer, I don't wish to offer these documents in evidence. I merely wish to describe them and propose a stipulation with reference to them that they are two documents on lined paper, perforated with three holes on the side as notebook paper, that both of the same have a type-written legend at the top which reads, "We, the undersigned wish an interview with Mr. Simon," and they are signed by approximately 75 names, is that right?

Mr. Macomber: I don't know. I haven't counted them.

Mr. Grodsky: Let's say over 50 names.

Mr. Macomber: Yes, over 50.

Mr. Grodsky: Over 50 names.

Mr. Macomber: Purports to be signed. We don't know whose signatures they are. They purport to be the signatures of 50 employees or over.

(Testimony of Betty Cave.)

Mr. Grodsky: That's right, including the name of Betty Cave. And this is your signature, is it?

The Witness: It is.

Trial Examiner: So stipulated?

Mr. Macomber: So stipulated.

Mr. Grodsky: So stipulated. [589]

Trial Examiner: Very well, the stipulation is noted for the record.

Q. (By Mr. Grodsky): The first name on top as one that signed is Dorothea Randall. Are you familiar with her signature? A. I am.

Q. I show you this document and ask you if that is her signature. A. Yes, that is it.

Q. Now, getting back to the question of date of when you signed this, I'm not interested in the exact date, I'm sure you couldn't recall it.

A. I couldn't recall it.

Q. Take, for example, a period of time when the notice was posted on the bulletin board or, for example, the date when Ann Hamilton walked off the job or any other thing that happened at that period that has come into the hearing, can you relate it to that in some way?

A. My best recollection would be before the notice.

Q. Before the notice was posted and after the employees had become aware of activity on behalf of the Mine Workers in the plant?

A. I would say so.

Q. Now, you mentioned at one point as a point of reference that at a certain time charges were filed

(Testimony of Betty Cave.)

against Ann [590] Hamilton. Now, were you referring to charges filed with the IAM?

A. Yes. Charges were filed against a number of the people for unionism.

Q. That included Ann Hmilton, also, included Loraine Evans? A. It did.

Q. How long after the charges were filed was there a trial, if you know, in terms of time?

A. Approximately two weeks.

Q. And none of these people appeared at their trial, did they? A. No.

Q. They were expelled, weren't they?

A. They were.

Q. At the time that they were expelled, Ann was already no longer working in the plant, was she?

A. I believe she had terminated.

Q. She had been terminated? A. Yes.

Q. Loraine was still working in the plant, wasn't she? A. Yes.

Mr. Macomber: I assume it is understood that any evidence relating to action which the union may have taken unilaterally or bilaterally against either of these people out of the presence of management would not reflect upon management?

Trial Examiner: It would not be [591] considered.

Mr. Macomber: Not binding and without making the formal objection, I understand that is the way the Examiner thinks, assuming that we are not bound with that sort of thing.

(Testimony of Betty Cave.)

Mr. Grodsky: This document is merely for the purpose of trying to establish a date if possible.

* * *

Q. Do you think, does this in any way refresh your recollection that the charges—strike that.

Could you by thinking back to the time when the trial had been completed determine how long before that the charges were filed?

A. I believe the first charge that was filed was dated January 25 or 28 which was not against either of the girls.

Q. Yes.

A. And within approximately a week's time, from the 25th to the 1st, thereabouts, I suppose the charges were filed.

Q. In other words, about February 1st? [592]

* * *

Q. (By Mr. Grodsky): By the way, you have testified that you have worked the take-off position and do you work it most often without gloves when you work it?

A. Most often, yes.

Q. And do you ever scratch your hands?

A. Might bang my knuckle now and then but as far as scratches are concerned, I don't remember any. [601]

Q. How often or how long do you work in the take-off position?

A. Well, that would depend as to whether or not the girl who formerly worked that station is absent.

(Testimony of Betty Cave.)

If she is absent, then, I work the station for a full eight hour shift.

Q. You have worked on it the full eight hour shift?

A. Yes. There was one time I worked it for a week and a half constantly.

Q. Now, you testified that at or shortly before the time that you observed that no solicitation rule posted that there had been a lot of dissension and that there appeared to be some agitation going on around the plant?

A. Throughout the plant, yes.

Q. Now, what in general was this agitation, is that what you were describing to us or are there some additional things that you have in mind when you describe agitation?

A. By that, one thing in particular was that Jimmie Juhl, who at that time was a mechanic, was free to go about the shop wherever his work took him and I would say four or five times a day he would come to the big conveyor to one of our girls, who was working there who had stated that she had signed a Mine Workers card, that he was after her to get her signature on the card. He would come several times throughout the day and approach her on this.

Q. Did you tell this to your leadlady or to your foreman? [602]

A. I had no reason to.

Q. Did it interfere with production in any way?

A. It did on that particular station, yes.

Q. But was your leadlady aware of this happen-

(Testimony of Betty Cave.)

ing? A. I assume so. It was quite obvious.

Q. Who was the girl in question?

A. Lora Rosa.

Q. Where is she now, do you know?

A. As nearly as I know, she is in Kansas. She has terminated with the company in June. [603]

KENNETH KING

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Macomber:

Q. Your name is Kenneth King?

A. Yes, sir.

Q. You are employed by the Essex Wire Corporation? A. That's right.

Q. As a foreman? A. At that time, yes.

Q. How long have you worked for Essex Wire?

A. Six years.

Q. How long have you been a foreman, or were you a foreman prior to the discharge of Ann, Loraine Evans? A. Prior to that?

Q. Yes. [627]

A. A year and a half, two years, maybe.

Q. Now, who was under your chain of command, that is, between you and Loraine, was there any assistant foreman?

A. Mr. Kresin is the department foreman and then——

(Testimony of Kenneth King.)

Q. Where does Mr. Gordon fit into the picture?

A. Mr. Gordon is in charge of inspection.

Q. And who is your immediate superior?

A. Mr. Harms, plant superintendent.

Q. What is your relationship with Mr. Simon?

A. Mr. Simon is the manager.

Q. Do you report to him occasionally, also?

A. Yes, sir.

Q. Now, how long had Loraine Evans been under your supervision?

A. Approximately one year.

Q. Will you tell me, I understand from the record that there isn't any question as to her general mechanical ability as an employee, that she performed satisfactorily within the mechanical sense, or am I wrong about that?

A. No, that is correct.

Q. Did you notice anything commencing with her employment in respect with relationship, with fellow employees in the matter of disputes, disagreements or anything of that kind?

A. Yes, I don't exactly recall whether they started exactly when she came to work when she was first hired. [628]

Q. Tell us when the matter of disputes was called to your attention?

A. I would say in the last, at least the last eight months of her employment.

Q. Would you describe the nature and extent of them as they came to your attention?

A. Seems as though she never could get along

(Testimony of Kenneth King.)

with anybody whoever you put back there with her. Around her, any area around her, nobody could get along with her.

Q. Who were the girls around her who seemed to be having difficulty?

A. One was Rita Frey. Helen Graesch. [629]

* * *

Q. (By Mr. Macomber): Now, do I understand that in addition to what you have personally observed and what you just described to us concerning the difficulties between these parties that there reached your attention reports of difficulties, disagreements from Mel Kresin and from others on other occasions? A. That's right.

Q. When did these reports first start filtering back to you?

A. Oh, for quite a while. I'd say at least six, seven months. It was going on and on.

Q. How frequent did you receive these reports?

A. Quite frequent. In fact, I had numerous sessions with Loraine. Several other people on their disagreements with each other, not being able to work with each other, at least three or four meetings, and the last two or three of the meetings that I had I gave each of them a thorough warning. It just went on and on and on and always causing a disturbance throughout the whole department.

Q. What effect, if any, did it appear to have upon the rest of the department? [635]

A. Well, it created an awful lot of uneasiness which certainly isn't very good for production or the

(Testimony of Kenneth King.)

rest of the people. It took a lot of peoples' time, spent a lot of time. I feel as though they had plenty of warning. Mr. Gordon had several talks with them.

Q. Gordon had several talks with them, you say?

A. Yes. I'm quite sure that Mr. Kresin also had several sessions with them and, like I say, I have had three or four, possibly five that in every case Loraine was considered. She was in every one of them and in many cases there was this continuance bickering back and forth and names being called back and forth and such things as that.

I mean there was no agreement between either side. Neither one of them could agree on what they said. [636]

* * *

Q. Now, Ann Hamilton—strike that.

Did you observe shortly after the first of the year and after the emergence of the conflict between these unions that the girls broke out in a rash of these union buttons, both unions, took to wearing these buttons?

A. Yes, there was some outburst there, you might say.

Q. Did you ever advise or say to Ann Hamilton or anybody else they could not wear a union button?

A. I actually did not tell anyone not to wear a button.

Q. Tell me this, how did this campaigning or union conflict first manifest itself, in what general way, tell us briefly.

A. I don't—

(Testimony of Kenneth King.)

Q. How did it first come to your attention, what things came to pass there in the plant, what did people do, what did they say that made it known to you that here was starting some sort of a campaign between rival unions for dominance or that the employees were beginning to feel a conflict and beginning to [637] take sides?

Do I make myself clear now?

A. Well, I will try to explain.

Q. Fine.

A. There was quite a bit of uneasiness throughout the plant, not only in the harness division but others. The one big thing I think that upset most of the people, I might be wrong, but I think one of the big items is the fact that the people, not the IAM union, were wearing these other pins and that caused quite a bit of friction throughout the plant especially where I spent most of my time. But that led from one thing to the other. I mean there was bickering going on and discussions and——

Q. Sticking to the buttons for the time being, when you noticed these buttons were causing trouble, did you go and speak to Mr. Simon about the buttons?

A. Yes, I did.

Q. Did you ask him whether it was all right for the girls to wear the buttons?

A. Mr. Simon makes a routine walk through the plant and that morning while we were talking, I asked him if these pins were all right to wear.

He told me that he didn't think they were and after a little more conversation, he said he would check into it.

(Testimony of Kenneth King.)

Q. He said he would check into it? [638]

A. That's right. So at that point, so it must have been 15 minutes later or so, I was talking to Ann Hamilton and it wasn't very long later, I don't recall exactly how long it was, maybe, oh, two or three hours, something like that, later, Mr. Simon came out and told me that it was legal for them to wear those pins, that there was not to be any campaigning such as passing the pins back and forth or literature or something of that type but so far as wearing the pins, they were entitled to wear the pins as much as anyone else. This was after I talked to Ann Hamilton.

Q. After you talked to Ann Hamilton?

A. Yes.

Q. When you talked to Ann Hamilton the first time, do you recollect whether there was any discussion before about pins—when I say “before,” you did talk to Ann Hamilton before Mr. Simon came back and advised that it was perfectly legal to wear pins, is that right? A. Yes, sir.

Q. In the meantime you had a conversation with Ann, is that right? A. Yes, sir.

Q. What, if anything, was said about the pins in that conversation, if you can recollect?

A. There was nothing exactly said about removing the pin. As I was talking to her about this no campaigning thing, more [639] or less, I mean it was a matter of discussion, as I was talking to her there, I must have been talking, maybe, four and a half minutes, she removed the pin, slowly removed the pin.

(Testimony of Kenneth King.)

Q. How did you happen to talk to her about no campaigning? A. Pardon?

Q. How did you happen to talk to her about no campaigning?

A. Well, at that time this Freda Totodo, I guess her name is, she was on the switch light line right in back of her and there was a lot of discussion going around the plant that people were wearing the pins and they wanted to know what was going to be done about it and so on and so forth.

And this Freda and a couple other people, so on and so forth, asked me to see what I could do about it. So I talked to Ann Hamilton about it, although I did not tell her to remove her pin.

Trial Examiner: Can you remember the conversation, what you said or the substance of what you said?

The Witness: Not exactly.

Trial Examiner: Well, we know that you told, did not tell her to remove the pin but I'd like to know what you did say, if you recall.

Q. (By Mr. Macomber): Yes, just tell us, we don't expect you through the haze of time to repeat word for word. That would be almost impossible to tell everything that was said, but we do want to know as nearly as accurately as possible what [640] the conversation was, what she said and what you said, in substance. A. Well——

Q. The way to do that is go back in your imagination and take another run at the thing. You are

(Testimony of Kenneth King.)

walking up to her. She's standing there. Try to remember what you said to her and what she said to you as best you can recall. That is the best you can do.

A. Well, I was, I went to her and told her that all this problem, all these discussions and problems we had been having probably could be eliminated in most ways if people would stop their bickering back and forth. I mean there was more or less of a gang affair, you might say, one side versus the other.

Naturally, either one of them could get along with each other. I told her that she wasn't permitted to pass back and forth the pins, so on and so forth, not that she was passing the pins back and forth, just as I reminded to her that there was to be no pin passing back and forth, as I was talking to her, she was just leaning over the machine there. As I was talking to her, she removed the pin. She just held it in her hand there, with other people watching us because I know they were all concerned about what was going to happen.

There was just, I don't recall whether I ended the subject right there or whether I was called away or **what.**

Q. Did she say anything to you?

A. Well, she asked me why, and I just told her why. [541]

Trial Examiner: Why what?

Q. (By Mr. Macomber): Why what, she asked you why what?

Mr. Macomber: Is that what you were going to

(Testimony of Kenneth King.)

ask? She asked you why, what did she ask you why about?

The Witness: She just asked me why I had come to her in particular than anybody else.

Q. (By Mr. Macomber): What did you say when she said why have you come to me in particular?

A. I told her no particular reason why I had come to her but I had to start with somebody. There was no particular reason for me seeing her.

Q. Particularly after you talked to Mr. Simon, did you ever tell anybody to remove their button or their badge? A. No, sir.

Q. When was it that you had this conversation with Ann Hamilton, as best you recollect it, keeping in mind that she was discharged on the 10th of February, not discharged, but she terminated, or whatever happened to her, happened on the 10th of February, 1954?

A. The best I can remember it must have been just before the bulletin came out about this pin wearing.

Q. Was it pin wearing or solicitation?

A. Solicitation.

Q. Would that have been, when you refer to a bulletin, do you refer to—— [642]

Trial Examiner: Off the record.

(Discussion off the record.)

Trial Examiner: On the record.

Q. (By Mr. Macomber): Take a look at this,

(Testimony of Kenneth King.)

General Counsel's No. 2, look at it, examine it, read its contents. Is that the bulletin to which you had reference in your last answer?

A. That is correct.

Mr. Macomber: You may cross-examine.

Cross-Examination

By Mr. Grodsky:

Q. Mr. King, with relation to the day on which Ann Hamilton was terminated from the plant, could you relate back about how long before that you had the discussion with her about the button?

A. I don't recall it exactly. I really can't remember.

Q. I see. Did you see when that bulletin that was shown to you, General Counsel's 2, did you see when that was posted?

A. I didn't see it actually posted, no, but I saw it the same day it was posted. In fact, right after it was posted.

Q. I mean you saw it on the bulletin board?

A. Oh, yes, sir, I saw it on the bulletin board.

Q. And your recollection is that you spoke with Ann before you saw that on the bulletin board?

A. Yes, sir.

Q. Now, when you spoke to her, you told her that, or did you tell her that there was a rule about no campaigning? [643]

A. No.

Q. Well, what did you tell her?

A. I didn't come right out and tell her that

(Testimony of Kenneth King.)

there was a rule about no campaigning. There had been discussion about handing things back and forth and literature. So I was just explaining to her that anyway, she should not do any of that type of thing.

Trial Examiner: Discussion on whose part did you refer to?

The Witness: I don't follow what you mean.

Trial Examiner: You said that part of your statement to Mrs. Hamilton was that there had been discussion about the handing back and forth of buttons and distribution of literature.

The Witness: There had been discussion with myself and Mr. Simon, management, so on and so forth, like that.

Trial Examiner: Who is so on and so forth?

The Witness: Mr. Simon and management, Mr. Harms, Mr. Simon.

Trial Examiner: It's just management, then, no so on and so forth?

The Witness: That's right. There was no set rule at that time but I did go to her and ask her not to contribute to any of that. Later on was the bulletin that came out and stated there was to be no campaigning.

Q. (By Mr. Grodsky): Did you speak to her on the first day that you observed buttons, Mine Worker buttons in the plant? [644]

A. No, there had been other buttons prior to that.

Q. That is other Mine Workers' buttons?

A. I am quite sure. I don't recall whether they

(Testimony of Kenneth King.)

were in the harness department but there were other buttons being shown.

Q. Did you talk to anyone else the same day you talked to Ann about cautioning them about engaging in union activity? A. No, sir, I didn't.

Q. Did you talk to anyone else if not on that day, on some other day? A. No, sir.

Q. In order that the record should be crystal clear, the only person you spoke to about the subject was Ann?

A. The only person I spoke to about campaigning was Ann Hamilton.

A. Now, you mentioned that Freda and others had spoken to you. Had they spoken to you before the time that you spoke to Ann Hamilton?

A. Yes, sir.

Q. And who were these others?

A. One in particular was this Freda Totodo, I guess you pronounce her name that way, and the other ones, I really can't remember who they were.

Q. About how many of them were?

A. Oh, I imagine, in the form of a discussion.

Q. Was it in the form of a delegation? [645]

A. No, no, just a casual—was no planned meeting of any kind or anything like that.

Q. Well, did a couple of employees come and talk to you?

A. No, sir, I was walking through the switch line.

Q. Yes.

(Testimony of Kenneth King.)

A. Around that area, through there, and there's where it started.

Q. And Freda spoke to you?

A. Yes, she mentioned it to me.

Q. What did she say to you?

A. She just said that this girl was wearing this pin.

Trial Examiner: Which girl wearing which pin?

The Witness: Ann Hamilton wearing this pin and had gone into the rest room without the pin and came out of the rest room with the pin and it was causing a lot of disturbance and they wanted to know what I could do about it.

Trial Examiner: Then Mrs. Totedo identified this pin or spoke of it as "this pin"?

The Witness: I don't hardly remember. She said just "one of those pins." I took it for granted that is what it was.

Trial Examiner: Very well.

The Witness: But I did see the pin.

Trial Examiner: I know you ultimately did. I was wondering whether when Mrs. Totedo first mentioned it whether she had described it or identified it. [646]

The Witness: No, sir, I'm quite sure, just spoke of it as a pin.

Q. (By Mr. Grodsky): Did any other employees before you spoke to Ann talk to you about it in addition to Freda?

A. Yes, there were one or two others. Now, I

(Testimony of Kenneth King.)

don't recall their names. I really don't remember it.

Q. That's right.

A. I just remember this one in particular.

Q. Now, when you went to Ann, did you make any inquiry into the subject that Freda was interested in, namely, about her not wearing a pin when she went into the rest room and wearing it when she came out?

A. No, sir, I have not made an issue of that whatsoever.

Q. You didn't talk to her about the pin at all, or did you? I think you mentioned that you mentioned something about passing pins.

A. I mentioned to her about passing pins, yes.

Q. Just what was it that you said to her about solicitation and about union activity?

A. I just don't remember exactly. I had a talk with her that just meant that we didn't want any disturbance going on throughout the plant and that several people were complaining about it and that whatever we could do to limit it would be just that much more help.

Q. In these complaints that you heard about that from Totodo [647] and these other employees, is that what you had reference to when you testified earlier that their campaigning was causing trouble?

A. Would you repeat that, please?

Q. You said at one time in your direct testimony that the campaigning of the Mine Workers group was causing trouble. Do you remember that you said that?

A. If I said it, why——

(Testimony of Kenneth King.)

Q. If you didn't say it, let me ask you now: Apart from this on again off again button incident, was there any other campaigning problem that was called to your attention at the time or before the time that you spoke to Ann Hamilton?

A. No, there was no other problem.

Trial Examiner: Your answer is what?

The Witness: No.

Q. (By Mr. Grodsky): Now, turning to the problem of Loraine Evans' discharge, you said that you were aware of trouble for at least the last eight months of her employment, is that correct?

A. That is correct.

Q. And her immediate foreman was Gordon, wasn't he?

A. Mr. Gordon is in charge of inspection. He instructs them in the method of inspection, what goes, what doesn't go, but their conduct and so on and so forth are under the supervision of production which in this case was myself. [648]

Q. In other words, between you and Loraine, there isn't an intermediate foreman, is that a fair statement?

A. Well, what I'm getting at, Mr. Kresin is the department foreman actually.

Q. He is the department foreman of the department which includes the checking, the checking process?

A. He, no—let me make that clear.

Q. Yes, please do.

A. Mr. Gordon is in charge of inspection. He

(Testimony of Kenneth King.)

instructs the girls on the inspection line there, the method of inspecting, what to look for, what not to look for, what goes and what doesn't go.

So far as their conduct in that department, their work or anything to do with the production department, that comes right under production. I mean, Mr. Gordon had no authority over them so far as absenteeism or mechanical ability. He just instructed them on inspection work.

Q. If a girl in that department had to go to a nurse, who did she ask to go to the nurse, if you know? A. Repeat that, please?

Mr. Grodsky: Would you read it back, please?

Trial Examiner: Will the reporter read the question, please?

(The question was read.)

The Witness: Actually, there was no set rule on that. [649] Mr. Gordon worked over on the other end of the plant quite a ways away. We had a relief setup there for the girls which, if they needed relief, they didn't even have to contact any foreman. Just see the relief girl, she would take their place and that was it.

Q. (By Mr. Grodsky): Now, we have had testimony here that in order for the girl to go to the nurse, she had to have a pass that was issued by the foreman? A. I misunderstood. I'm sorry.

Q. Now, I will repeat my question. To what foreman would a girl working as a checker to what

(Testimony of Kenneth King.)

foreman would she look to for a pass to go to the nurse, if you know?

A. Didn't I say there was no set rule on that? To tell you the truth, I never had that occasion come up. There's never been any problem on it. I really can't say whether they went to Mr. Kresin or Mr. Gordon. I would think they went to Mr. Kresin.

Trial Examiner: Mr. King, if I interpret the general purpose of Mr. Grodsky's examination correctly, his question as to what supervisor a girl would look to for permission to go to see the nurse is brought into the hearing only by way of illustration to illuminate a broader problem.

What I think is important here, unless Mr. Grodsky has a purpose which is not now apparent to me, is a determination as to the precise nature of the supervision over the checkers. [650] Now, you have indicated that Mr. Gordon was in effect their instructor and observer or supervisor insofar as the actual conduct of the checking operation was concerned but that there may have been some other supervisor with responsibility extending to the checking area and to the checkers between the girls and yourself.

Now, if that is the fact, if there was some supervisor with some kind of authority over this area of the plant other than yourself and other than Mr. Gordon, who would that have been?

The Witness: Mr. Kresin.

Trial Examiner: Mr. Kresin's authority as fore-

(Testimony of Kenneth King.)

man extended to that area of the plant, the checking area in these particular respects that you have outlined?

The Witness: Oh, yes, covers the entire department.

Trial Examiner: I think at this point that it would be well to break for a five-minute recess.

(Short recess taken.)

Trial Examiner: The hearing will be in order.

Q. (By Mr. Grodsky): Now, you testified that where Loraine Evans was they weren't able to get along with anyone back there. That, I believe, was substantially what you said, is that right?

A. That is correct.

Q. And you mentioned some, you named Rita Frey and Helen [651] Graesch.

Now, in connection with Rita Frey and Helen Graesch, what happened, were they transferred away from that station?

A. Yes, we had considerable amount of problems there so we tried to iron out the problem so we moved these people in question away from that particular area. In fact, in some cases moved them out of that section of the department, moved them to the other side in the press section, and then the problem seemed to die down there for a while and then reoccur or someone else or some other problem would come up.

Q. At the time you moved them away from that area did you have them in the office, did you discuss

(Testimony of Kenneth King.)

the problem, did you investigate, did you investigate what the situation was?

A. Yes, I had people in question in the office with Loraine.

Q. You had Rita and Helen and Loraine in the office? A. Yes.

Q. Was any other supervisor there in the office with you? A. At times, at times there was.

Q. Were these three in the office together with you on more than one occasion?

A. Definitely.

Q. Now, can you place the first occasion when they were in the office with you?

A. I don't exactly remember the first occasion.

Q. Well, is it a fact the first meeting you had with those [652] three was prompted by Loraine coming into your office and asking for a transfer?

A. No, sir.

Q. Do you remember a time when Loraine came in and asked for a transfer?

A. I believe there was one occasion for that.

Q. And that was a time that involved these two girls?

A. I'm not quite sure but it probably was.

Q. At that time did you call the two other girls into the office? A. No, sir.

Q. Do you remember why Loraine wanted a transfer?

A. If I remember correctly, she wanted a transfer because of not being able to get along with the people in that area. I think she felt that she was

(Testimony of Kenneth King.)

being picked on more or less and she requested a transfer.

Q. Eventually you transferred the other girls, is that what you did?

A. We transferred the other girls. Now, whether it was at this time when Loraine was requesting the transfer or before or after, I don't remember but we did transfer the other girls.

Q. And was there any operational reason why you didn't transfer Loraine?

A. There was one thing why we didn't transfer Loraine. It was discussed between myself, Mr. Gordon that Loraine was [653] very good on inspection, that between the three we felt that we would leave Loraine there and remove the other two.

Q. Now, then, at any other time after you transferred those two other girls—strike that.

Do you remember a girl by the name of Holst?

A. Vina Holst.

Q. Vina Holst? A. Yes.

Q. And there was a time when friction developed between Vina Holst and Loraine, wasn't there?

A. Yes, sir, yes, there was.

Q. And on this occasion you transferred Vina Holst, is that right? Or let me ask you, did you have anything to do with the transfer of Vina Holst?

A. If I recollect correctly I didn't, I don't think she was transferred.

Q. Well——

(Testimony of Kenneth King.)

A. You mean, what do you mean by transfer, from one department to the other?

Q. Maybe she wasn't transferred in that sense. As I recall, Mr. Gordon's testimony was her work station was moved.

A. That's right.

Q. That is what happened and you had nothing to do with that?

A. No, sir, it was discussed with me, but to make the actual move, Gordon made the move. They were working together, [654] Loraine and Vina Holst at this one section.

Q. We already have testimony about that. You didn't observe any friction between them, did you, personally observe any friction?

A. Vina was, had two conversations with me about it.

Q. All right. Now, what did she say to you about it on both of these conversations?

A. Well, in both occasions she suggested that she would like to be moved down to the further end of the conveyor.

Q. And did she say why?

A. Because she couldn't get along with Loraine.

Q. Did she say in what regard she couldn't get along with Loraine?

A. I'm sure that she said something about some personal problems that she was having but I really don't remember the full conversation.

Q. Now, in addition to those three girls whose transfers we have discussed moving away from that

(Testimony of Kenneth King.)

station, do you know of any other girls who have come to you with problems about Loraine?

A. About Loraine?

Q. Yes.

A. Only in one sense, that the entire group of people were complaining about the friction down there that it was disturbing their work. Other than the people called out [655] here, there has been no, there's been no one else to actually come in and have a talk with me about a transfer.

Q. Did Dorothea Randall ever complain to you about Loraine? A. Dorothea Randall?

Q. Yes. That's right.

A. There was at least one, maybe twice that she was complaining to me about Loraine. [656]

* * *

MITCHELL J. SIMON

a witness recalled by and on behalf of the Respondent, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Macomber:

Q. Mr. Simon, in what form or manner did the matter of the termination of Ann Hamilton first come to your attention, what reports did you receive and from whom?

A. Well, as is the rule around break time, everybody begins to stir, I included. Fred Harms and

(Testimony of Mitchell J. Simon.)

I had been out around walking, I usually make a round around the plant with Fred in the morning and just about break time. Fred and I were walking toward the harness department and at break time everybody started to move toward the coffee room so we stepped over in one of the doorways in the wall, stepped back and stood there and talked for a few minutes, and then proceeded on to the harness department.

I believe we looked around, we were looking at one of our good neighbors here in San Diego who has some stuff stored at our plant and we were thinking about the rearrangement of the [681] plant. We were talking about this stock of his, general plant discussion, and I think it was either at the end of the break time or shortly thereafter, we walked up and we were going to discuss with King this plot of rearrangement of the harness department.

And the discussion was going on between King and Kresin regarding Ann Hamilton and we stood there and listened to it, listened to the story and I asked a couple questions regarding the girl.

Q. Of who?

A. King and Kresin, both. And I asked Mel, particularly, what had happened to the girl and if she was hurt. He said, no, she was just crying and she wanted to go home. He said she wasn't feeling good and I said, "Why?"

And he said, "She didn't say why."

And I said, "What did the nurse say about it?"

(Testimony of Mitchell J. Simon.)

The story is precisely as given in the testimony which has been repeated so many times.

And I said, "Well, was she hurt, did she get hurt?"

He said, "No, not that I know of. She didn't say she was hurt. She just told me, 'What is bothering me a nurse can't help.'"

I said to him, "Did you tell her she had to have a pass from the nurse to go home?"

He said, "Yes." [682]

And I said to Mel, "You are telling me now that the nurse told you that she walked up there and asked for Mrs. Barnes?"

And the nurse told her, Mel told me that when he asked the nurse if Ann Hamilton had been up there to see her, the nurse said, "Yes, she came up here and asked for Mrs. Barnes and I told Ann that Mrs. Barnes is at a funeral representing the company. One of our employees or one of their family passed away."

And she said, "With that, she turned around and walked out."

That is the story that Mel is telling me and I said, "Well, did she come back to you?"

And he said, "Yes, she came back here and she told me that she wasn't feeling good." And he said, "She had tears in her eyes."

And I asked him if he tried to find out what was wrong with her and he said, "All she would tell me is what is wrong with her the nurse couldn't help, and I told her she'd have to get a pass from

(Testimony of Mitchell J. Simon.)

the nurse stating she was ill because I needed her on the conveyor and I was short and I didn't want to see her go home."

With that, I says, "O. K." to Kenny and Mel and I said, "Fred and I will discuss the situation and we'll handle it from here."

So I told Fred that, consistent with company rule and [683] policy that any employee who refused to accept an assignment given them, any particular job that we transfer them within the classification which is our privilege which we do every day, it's common practice, any of those people who refuse the assignment, we consider them voluntary quits. Any person that leaves the premises without proper authorization is an automatic quit.

We have had many such cases here at San Diego and other divisions where I have been.

Q. How frequent are those instances?

A. Oh, I'd say, occasionally, maybe, we have had four or five down here. I suppose I could dig them out if I made an extensive attempt.

Q. People walk off the job without any kind of a slip?

A. Just decide they are going home and just leave and any case such as that, we just pull the cards and we say it is a voluntary quit and is even protested on that basis at the unemployment compensation commission. When they apply for compensation, we make a protest that they left their work voluntarily without authorization and we considered that an automatic quit.

(Testimony of Mitchell J. Simon.)

So that is the way the thing came up to me and that is the way it was disposed of.

My instructions were to Harms to pull her card and tell Mrs. Barnes to have the girl go back and see the foreman, see [684] him. Since I'm on the road most of the time, Fred Harms closes out most of the deals.

Had—well, maybe that isn't the question, but I was just going to elaborate. Had this young lady mentioned one word of not being able to do the job, we have a rule, of course, wherever a girl wants a permanent transfer that she says, "I can't do this work for such and such a case," we have her make a written statement why she can't do it and so on and send her to our doctor for examination.

But if a girl such as Ann who unassumingly does her work every day and came to a foreman and said to a foreman, "Well, such and such is bothering me and I'd like to get relief," or, "I had a bad night last night, my kids kept me up all night." I just can't do that job today, can I get off it today?"

In that case, it's been a practice for us to take them off. Any foreman we have here at San Diego will testify to any such statement.

We do not allow our foremen to abuse any of the employees. Just in recent months we have discharged two such supervisors.

Say, one fellow that came to us that was just not speaking properly with the girls, not handling them conducive to our program. We neither had a grievance nor a complaint from the union nor a

(Testimony of Mitchell J. Simon.)

complaint from the people. We heard via routine as we usually do that such and such was the case and we questioned the man. I questioned his foreman, Kenny [685] King was his foreman. Kenny King said, "I have reason to believe that is the case."

Fred and I got the man aside and questioned him and said, "Now, look. We want the absolute truth."

The man said, "Well, maybe—" I mean, you can tell by his attitude that he on occasions had done it.

We let the matter go until I got up to the financial department. I had his money prepared and the next time I was in San Diego I turned the checks off and said to Fred, "Pay this man off."

It was the end of him and that is the policy by which we work and I'm sure if this girl, Ann Hamilton, in this particular case would have made any attempt whatsoever to state her problem, if she had any, she could have and would have been held.

Nevertheless, we can't allow one person to get away with breaking the company rules and policy and another one not. It's just not good business.

Now, that is the extent of what I know of the Ann Hamilton case from beginning to end.

Q. Did you have any personal contact with her beforehand, with Ann Hamilton? A. No, sir.

Q. You never had a chance to discuss buttons, the wearing of buttons or campaigning or union activity? [686]

A. The only thing I knew of Ann Hamilton was

(Testimony of Mitchell J. Simon.)

that she was the wife of J. C. Hamilton, a sister-in-law of Loraine Evans.

Q. Did you know at that time, that is, the time of discharge, that she was a member of the United Mine Workers?

You shake your head, you mean——

A. I don't know whether I can state myself when I shake my head. The significance of them being members of one union or another meant nothing to me at all. I mean, it doesn't matter which union a person has representing them. They are still the same people. No matter, you actually deal with the same people.

I have been with the organization almost 20 years. I have dealt with maybe six or seven or eight, I don't know, I can't tell you the various types of unions.

My first experience down here was with the Machinists.

I also have charge of the Anaheim plant. I got the Teamsters. How a Teamsters Union represents a wire plant is kind of strange but that is the case. They are the Teamsters, Chauffeurs and Warehousemen.

I have at one plant an Independent that belonged to what they call the National Electrical Wire Workers of America Associated, and they were associated with a bunch of other Independents.

I had UE, CIO, both factions of the CIO, the UAW, CIO, the IBEW, and that is why the fact that these people were [687] looking toward the

(Testimony of Mitchell J. Simon.)

Mine Workers for guidance or whatever they wanted was of no significance whatsoever as far as the local management is concerned.

Q. Now, skipping over on to the case of Loraine Evans, did you have any personal knowledge of her activity prior to her discharge?

A. Oh, yes. She stated to me one day as I was walking through the plant——

Q. Give us, Mr. Simon, the approximate date. If you can't give the approximate date, some date with relation to, say, the bulletin, the 15th of January.

A. Somewhere, I would say, it would be given or take, a week or two, a week or two after the bulletin. Loraine related to me that she was the chairman, she had been selected chairman of the United Mine Workers and that the—oh, it came about, I'm trying to think now how it came about that she told me. It was right in the aisle behind my office out in the factory.

Well, anyway, I can't remember how it came about, but she told me that she was selected chairman or chosen chairman of the United Mine Workers and I told her that was one thing the company didn't participate in whatsoever, factional dispute. We knew there was bickering going on. She admitted there was bickering going on.

It was causing us to have difficulties and harmonious relations which we have had prior to that period. as the [688] fact of the matter is, we

(Testimony of Mitchell J. Simon.)

operated almost four years without a written grievance. I think that is a pretty good human and labor relations record.

I think the record always will speak for itself of how you treated your people, how they treated you, you liked them and they liked you.

And I tried to explain when Loraine informed me of her chairmanship of this relation, how we felt about people and what they thought, and I told her that the company never enters into the factional dispute. And I recall in her testimony yesterday she said that I told her whenever the people decided they wanted a union in San Diego I went out and got the IAM for them. I think she is a little mistaken. I said that day that in my early days in the factory when I was an hourly rated employee, I participated as an hourly rated employee in organizing one of the first unions in the Essex Corporation. Maybe that is the mistake she made.

But I told her I understood her problem. The only thing I asked of them was that they, their thoughts and cares about who they wanted, what they did and so on be carried on outside of working hours, that I don't want to become involved in it, none of my staff members want to become involved in it. We don't care if they organize the people and they are designated the bargaining agent. We still had to bargain with the same people, still the same employees. [689]

Q. Let me ask this question, Mr. Simon, did you ever have any firsthand contact with any of the

(Testimony of Mitchell J. Simon.)

difficulties, if there were any such difficulties that Loraine Hamilton had—Loraine Evans had with fellow employees? In other words, did you personally observe any disputes or dissensions?

A. Well, personally observing, no.

Q. Did you receive any reports? A. Yes.

Q. From your immediate subordinates whose duty it was to supervise activity?

A. Yes, and also from Loraine herself.

Q. Tell me about what conversations, if any, you had with Loraine respecting these different disputes. Tell us first when you had these discussions, who was present and where the discussions were held.

A. The first time that I could recall coming in contact with Loraine regarding disputes was when she worked for Scott Dunlap who was then in charge of the inspection before Alex Gordon.

Scotty had told me about Loraine and how he had put her on this job. She picked it up fairly well but he was having trouble down there. There seemed to be disharmony.

So I went down. I recall the conversation and at that time there was Loraine Evans and Rita Frey as I can recollect. And Rita Frey used to alternate with work between Loraine [690] Evans on the line, then do some small jobs, then walk over to the other side on miscellaneous and then come back and so on.

Well, I talked to her then and asked her how she liked the job.

(Testimony of Mitchell J. Simon.)

Fine. Was she having trouble? She said, "No, but I don't think the girl I'm working with likes me very much." Something in that nature.

And I can't recall the conversation except that what I usually tell people is that, well, we all have different personalities and all not tuned to like one another and let's just sort of ignore personalities and stick with our jobs and so on because that is any normal approach.

Q. Let me ask you this question, did you immediately participate in the determination which related to the discharge of Loraine Evans or was that something that you heard about afterwards through your subordinates?

A. King discharged her.

Q. As I understand it King discharged her after some discussion with Mel. Did he take that up with you before he discharged her or was that something done on his own authority?

A. No, the first I knew of Loraine's discharge, I was just walking out of my office in the same aisle behind there. I told you about how Loraine came up the aisle and said, "Mr. Simon, I have just been fired." [691]

Q. Tell us about that.

A. And I said, "What do you mean, you have just been fired?"

And she said, "Well, Kenny just fired me."

And about two steps behind her was Betty Cave.

I said, "Look, Loraine, we have had lots of discussions about various things. You are always com-

(Testimony of Mitchell J. Simon.)

ing to me with one problem or another. You have a union, you have a union grievance, union procedure. I think you ought to write it down, get it in writing and let's not sit here and talk generalities and then later on everybody standing there, I mean, and saying, 'Well, I didn't say this and I didn't say that,' your committeewoman can write that down."

I said, "Talk to her about it and go through the proper channels."

That is the last discussion I had with Loraine Evans after her discharge until——

Q. Do you recall when J. C. Hamilton testified he referred to some incident involving Goldie and to a conversation which you were supposed to have had with him, that is, with J. C. Hamilton, in which you said that if June—this involved the slapping, the so-called slapping incident—if June gets a witness to corroborate her, you'd have to fire him, something to that effect, do you recall that conversation?

A. I do. J. C. Hamilton and Goldie Riggins who is the day committeewoman and, I guess, who represents this gal on that [692] side of the building, Goldie and J. C. were up in J. C.'s foreman's office and they got a hold of me and Goldie said something about June told her that J. C. intimidated her by saying he was going to slap her.

And I said, "Is that so, J. C.?"

And he denied it. He said, "That isn't so," and he proceeded to tell the story. I can't remember what it is even though I heard it day before yester-

(Testimony of Mitchell J. Simon.)

day, but when he was telling it, it is pretty much the same way as he told me then.

And I said, "J. C., you know that is a serious offense to begin with, a man hitting a woman. Secondly, I don't know what you are up to whether you said it or not." But I said, "If these people file a grievance against you and they have witnesses that were standing there and heard it and swear that they heard it, then there wouldn't be any recourse for me but I have to discharge you on the basis of your threatening this woman on company time and property."

He said, "Mr. Simon, it just isn't so."

I said, "J. C., you don't have this thing to worry about if it isn't so. Nobody is going to file a grievance and nobody is going to swear to it."

And that is the last I heard of it. So, evidently, it must have been untrue.

Q. He said also that he had a discussion with you regarding the buttons? [693] A. No, sir.

Q. Well, he said that Simon said, "Take that badge off and leave it off."

A. No, that is incorrect. I can quote this discussion practically verbatim because it made me awfully angry.

Q. Just tell me this, you didn't have any such discussion with him relating to the badge?

A. I never mentioned the button at all to J. C. Hamilton or Ann Hamilton or to Loraine Evans.

Q. You never told anybody to remove their union button?

(Testimony of Mitchell J. Simon.)

A. Absolutely no. The only discussion is that I told in my testimony the other day regarding Jerry Pipmeier when he walked from Vivian Moore and was putting his button on his shirt. I told him that he could not campaign on company time and this was during working hours and that he could not take that button and pass it around to various people.

He said, "Mr. Simon, I have had no trouble here and I have liked it working here," and he said, "I'm not looking for any trouble."

With that, it was the end of the conversation.

Q. This J. C. referred to an incident in the coffee room where he also says you told him to take that badge off and he said, "Well, if others can wear the badge, I can wear a badge."

That doesn't ring a bell, you had no such conversation? [694]

A. That is, that is a very incorrect statement.

Q. He said you also told them that if you didn't, if he didn't like it you could close the plant up and move to Anaheim, or words to that effect?

A. That is a nonsensical statement because we couldn't move any of San Diego's equipment to Anaheim because they don't have any harness making equipment. Besides we have no room.

Q. Do you deny making such a statement?

A. Absolutely. There was a conversation.

Q. About what?

A. (No response.)

(Testimony of Mitchell J. Simon.)

Q. About the badge?

A. No, sir. That is the conversation that he mentioned about the telephone and the lavatory. It was after rest period as he stated when I saw J. C. He was not coming out of the lavatory, he was coming out of the phone booth.

I saw him when he went in and I said, "J. C., look, you know the situation that exists here today. Now, I have asked you before to behave. Get over on your job and stay there."

He got belligerent and said, "When I have to go to the lavatory, I got to go, and you and nobody like you is going to stop me."

And I said, "Look, that phone booth is not a lavatory. You just got done with your rest period. You were in the [695] lavatory after the rest period only five minutes after the rest period. You came out and the phone was ringing and you answered the phone and it was a telephone call to you."

This is a pay station phone in the plant where they are not supposed to receive phone calls.

And I said, "That phone call, as far as I'm concerned, is a pre-planned deal because you could never have incidentally come out of the lavatory, pass by the phone at this particular time and it should be ringing where we have over 300 employees and the phone call just happened to be for you."

And that is where he made the statement, he made the statement about how I was mistreating him because he was wearing a button and he was going to

(Testimony of Mitchell J. Simon.)

go to the Labor Board and close me up and all kinds of nonsense.

And I said, "Look, young man, I don't care what kind of a button you are wearing. There isn't anybody around here going to threaten me. Get back to the job and stay there and if I catch you off there, I'm going to fire you."

That is the statement right to a "T."

Q. Loraine Evans testified and Betty Cave again this morning referred in her testimony to some petitions which were described in the record and which I now hold in my hand. Counsel for the Board described the petitions and we, by stipulation, put them in the record. But just for illustrative purposes, I will hold those petitions up so you will know what I'm talking about. [696]

Directing your attention to those petitions, can you tell us how they first came, how and when they first came to your attention?

Those petitions came to my attention, there were four girls that walked through the aisle to which I referred to before to the back door of the general offices of which my office door faces.

Q. Before that did you have any knowledge of that so-called petition?

A. No, never saw it.

Q. As a matter of fact, that was what we have been calling a petition is just some paper with a lot of names that we understand wanted an interview with Mr. Simon, is that right?

A. Yes.

(Testimony of Mitchell J. Simon.)

Q. And when they came into the office, who led the delegation or who carried the petitions?

A. I think, well, I don't know who carried it. There were four girls as I testified and I can't think for the life of me who the other one was. One was Freda Totedo, one was Melen McLewin. Now, I have, there's two of them.

Trial Examiner: Do you remember about when this was? I don't think the date was shown.

Q. (By Mr. Macomber): Do you remember whether it was before or after Ann departed, these petitions, do you recall whether it was before or after posting of the bulletin, does that [697] give you an anchor?

A. I can't, I just can't put my finger on it.

Q. Was it early in the year?

A. I think perhaps it was in January. I couldn't swear to that, counsel.

Q. All right, go ahead and tell it.

A. Whoever the four were, anyway, I named three of them the other day. They walked into the office with this petition and said, Mr. Simon, and put these on my desk, these papers, and said, "All these people, we have worked here for a long time. We have never had any trouble. Things are so upset out in the plant. There's a lot of this union talk going on and the company will close the plant down and all such nonsense as that. Can't you do something about it or what can we do about it?"

I said, "Now, look, girls. First of all, you know this is the wrong approach. Number one, you

(Testimony of Mitchell J. Simon.)

shouldn't be circulating papers in the plant. Number two, you have the designated bargaining agent here, union representation. It's not my place to advise you what to do. If you have troubles, you have bad working conditions, then the place for you to get your information is down at your union hall. This factional dispute that is being carried on out here is something that management cannot participate in. We have no hand in the matter at all. No matter, even if we lean one way or the [698] other, it doesn't matter which way we lean, the other side will say we are unfair to them. Consequently, we got to walk down the middle and be careful where we step or we might step on somebody's toes. Now, I can't do anything for you. This is something time must heal."

And with that, the girls said, "Thank you," and walked out. That is it.

Q. You kept these so-called petitions in your file?

A. Yes, sir, like I kept a lot of that other detail stuff.

Q. Do you know of any other petitions being circulated in the plant?

A. No. I know from time to time somebody passes a little box around, unknowing or unapproved, collection for somebody that has had a hard time or something of that nature, but we definitely, and the people know that if they want to circulate anything within a department or the plant or so on, they must get the approval of the management to do it. That is the agreement we have.

(Testimony of Mitchell J. Simon.)

Q. That goes for the very petition that has been described in the evidence?

A. The very petition comes under that rule.

Q. Do you know anything about the circulation of the T.V. petition in there, was there such a petition?

A. I didn't even know this Freda liked polkas.

Q. One of the witnesses for the Government testified that [699] somebody apparently connected with the—I can't keep these initials straight—with the IAM, one of the representatives of the IAM on company time came into the plant and engaged in some activity which was vaguely described as campaign activity, as I recall.

Are you aware of specifically giving any such union representative authority to go in there and campaign or did any such person go in there and campaign to your knowledge, if they did?

A. Absolutely not. They are allowed in the plant. A credited representative of the union, business agent and so forth are allowed in the plant for the servicing of the contract only.

Q. This is one of those agents. You can't keep them out under the terms of the contract?

A. That's right. That is the law.

Q. You didn't permit any campaigning on their behalf to go on in the plant?

A. On anybody's behalf.

Trial Examiner: Under the contract you have does it restrict actions to working time?

Mr. Macomber: I read the other day that por-

(Testimony of Mitchell J. Simon.)

tion of the contract "Union representatives properly accredited to the company by the union shall have access to the plant for the purpose of contacting committeemen and/or employees." [700] And "The company, shall not impose regulations which will have the effect of excluding the union representative from the plant."

Trial Examiner: It was with relation to the last part of it that I was wondering if you considered that part of the contract, you had the right to limit the time of access to non-working time.

The Witness: No, we feel if they were overdoing and we saw it, they'd be good enough to stop if we asked them to.

Q. (By Mr. Macomber): You had no abuse of that provision, I take it? A. No.

Q. I think I have asked you this question before but I will conclude on that, anyway.

With respect to both, the discharge, dismissal or voluntary quits of either of these complainants, did you have in mind any intention, or any responsible party of management of Essex Wire Corporation, was it the intention to discriminate against either of these employees?

A. Absolutely not and I can cite as an example there are other people who are equally as responsible in the UMW who are working in our place and probably will work there for 20 years as long as they do their job.

Mr. Macomber: You may cross-examine. [701]

(Testimony of Mitchell J. Simon.)

Cross-Examination

By Mr. Grodsky:

Q. Did you have labor management meetings in your plant in which representatives of the union participated?

A. Yes, Mr. Harms handled those generally. The routine labor management meetings Mr. Harms handled those.

Q. How frequently are those meetings held?

A. I think he has them once a month. I'm not sure.

Q. Do you know whether prior to the time that the Mine Workers Union showed interest, whether representatives of the IAM appeared or participated in those meetings?

A. I think they always have.

Q. Do you know that there was an employee by the name of Vivian Moore who was the president of the local in the shop?

A. I knew her very well.

Q. And you knew there was a time she was president of the local?

A. I don't know that she was president. I knew she was an officer of some kind.

Q. All right. During the time that she was an officer, do you know whether the IAM representatives participated?

A. Participated in what?

Q. In the labor management meetings?

A. Yes, I think so.

(Testimony of Mitchell J. Simon.)

Q. Mrs. Evans in her testimony made reference to a conference [702] with you in which she called your attention to cards being circulated by the IAM to revoke the authorization of the UMW. Do you recall any such conversation with her in which the matter came up? A. Yes, sir.

Q. And do you recall, what is your recollection as to that conversation?

A. Pretty much along the same lines as I previously stated about union membership and I also told them that they, if anybody was passing out or passing out union literature or petitions during company time that they are subject to the policy set forth by the company, that it's unallowable.

I, personally, never saw neither J. C. Hamilton nor Jimmie Juhl nor any member of the IAM passing out anything because it's typical, when I'm in the plant, they are nothing but angels. Everybody is saintly and any two people that are talking about personnel or otherwise, they are moving their hands like they are supposedly working. I have been all through that because I have been an employee for many years. They haven't fooled anybody.

Q. When Loraine called your attention to the fact that there were such cards being circulated, did she mention that Dorothea Randall was doing it, do you recall?

A. No, I don't. She didn't name any names at all as far as I can remember. She just generally told me. [703]

Q. I see. Well, do you know of your own knowl-

(Testimony of Mitchell J. Simon.)

edge who prepared those petitions which had the signatures, in other words, who typed that thing on top?

A. Counsel, the only thing I know of the petition is, as I stated the first time, I saw them when they were laid in front of me.

Trial Examiner: Did you undertake any investigation of the report that you heard from Mrs. Evans about the circulation of these cards?

The Witness: Absolutely. I, even before Mrs. Evans mentioned it, I told the boys in the plant. I said, "Look, this is one thing that we cannot get mixed up into. I don't want, I want you to be certain that you all walk the middle of the road and neither lean one way or the other. You report anything you see."

And those were my instructions to the plant boys.

Trial Examiner: When you say "plant boys," you mean the supervisory personnel?

The Witness: The staff, yes, sir.

Mr. Grodsky: I have no further questions.

Trial Examiner: You may be excused.

(Witness excused.)

Trial Examiner: Anything further on behalf of the Respondent?

Mr. Macomber: I believe we rest. We do rest at this time. [704]

Mr. Grodsky: Before proceeding, I would like to move to amend for lack of proof on my part Paragraph 6 (a) (3) of the complaint insofar as it

refers to Gerald W. Pipmeier, and I wish to achieve it by amending out and by excluding the following words after the name of M. J. Simon on Line 1 of Subparagraph 3, strike out the words, "On or about February 8, 1954, directing Gerald W. Pipmeier to remove his UMW button, and."

Trial Examiner: I gather there is no objection?

Mr. Macomber: No, I have no objection.

* * *

Trial Examiner: Just a moment. Let me dispose of the pending motion. The motion to amend is granted.

Mr. Macomber: You can strike any part or all of that as far as I'm concerned.

I believe it will be stipulated that under date of March 17, 1954, in what purports to be the handwriting of Gerald W. Pipmeier, the same gentleman whose name was the subject of a motion on behalf of General Counsel and whose name is frequently interspersed in the record, that there came addressed a communication to the Essex Wire Corporation, San Diego, California, as follows: "Dear Gentlemen: Please consider this as my letter of resignation effective at once. I have found other employment which I consider better. Working [705] at Essex Wire has been a pleasure and most pleasant period. Respectfully signed, Gerald W. Pipmeier."

I offer this for what it's worth.

Trial Examiner: Any objection?

Mr. Grodsky: No objection.

Mr. Macomber: Without offering the letter, I take it, it may constitute part of the record without offering the letter itself unless you want it.

Trial Examiner: Very well, in effect, I gather counsel have stipulated that a letter of the tenor read by counsel was received by the company.

Mr. Grodsky: That's right.

Trial Examiner: Very well, the stipulation is noted for the record.

Mr. Grodsky: And, Mr. Examiner, before I proceed with my rebuttal, I propose a stipulation which I have discussed with counsel to the effect that if a Field Examiner, Karl Filter, were called to testify, he would testify that on February 12 he took a statement from Mrs. Hamilton that at that time her fingers were partially covered with gauze bandages but that was the extent of his observation of her hands. He did not make a careful examination of her hands to determine the extent to which they may have been injured.

Mr. Macomber: I will stipulate that if the gentleman last named in the proposed stipulation were called to testify [706] he would so testify and that he may be, for the purposes of this record, deemed to have so testified.

Trial Examiner: Very well. The stipulation is noted for the record. [707]

Received August 15, 1954.

[Title of Board and Cause.]

CERTIFICATE OF THE NATIONAL
LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.84, Rules and Regulations of the National Labor Relations Board-Series 6 as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a consolidated proceeding had before said Board, entitled, "Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corporation of California and Ann Hamilton, an Individual," Case No. 21-CA-1921; and "Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corporation of California and Loraine L. Evans, an Individual," Case No. 21-CA-2035 before said Board, such transcript including the pleadings and testimony and evidence upon which the order of the Board in said consolidated proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

(1) Stenographic transcript of testimony taken before Trial Examiner Maurice M. Miller on August 2 through 5, 1954, together with all exhibits received in evidence.

2. Copy of Trial Examiner's Intermediate Report and Recommended Order (annexed to item 5

hereof) and copy of order transferring cases to the Board, both dated February 15, 1955, together with affidavit of service and United States Post Office return receipts thereof.

3. General Counsel's exceptions to the Intermediate Report and Recommended Order received by the Board on March 23, 1955.

4. Respondent's exceptions and request for oral argument received by the Board on March 23, 1955. (Request for oral argument denied, see page 1, footnote ¹ of Board's Decision and Order.)

5. Copy of Decision and Order issued by the National Labor Relations Board on July 28, 1955, with Intermediate Report and Recommended Order annexed, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 30th day of April, 1956.

[Seal]

NATIONAL LABOR
RELATIONS BOARD,

/s/ FRANK M. KLEILER,
Executive Secretary.

[Endorsed]: No. 15077. United States Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Essex Wire Corporation, a Corporation, Doing Business as Essex Wire Corporation of California, Respondent. Transcript of Record. Petition for Enforcement of an Order of the National Labor Relations Board.

Filed May 7, 1956.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

vs.

ESSEX WIRE CORPORATION, a Michigan
Corporation, d/b/a ESSEX WIRE CORPO-
RATION OF CALIFORNIA,

Respondent.

PETITION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR
RELATIONS BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U.S.C. Secs. 151, et seq.) hereinafter called the Act, respectfully petitions this Court for the enforcement of its order against Respondent, Essex Wire Corporation of California, San Diego, California, its officers, agents, successors, and assigns. The consolidated proceeding resulting in said order is known upon the records of the Board as "Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corporation of California and Ann Hamilton, an Individual," Case No. 21-CA-1921; and "Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corpora-

tion of California and Loraine L. Evans, an Individual," Case No. 21-CA-2035.

In support of this petition the Board respectfully shows:

(1) Respondent is a Michigan corporation engaged in business in the State of California, within this judicial circuit where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10(e) of the National Labor Relations Act, as amended.

(2) Upon due proceedings had before the board in said matter, the Board on July 28, 1955, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers, agents, successors, and assigns. On the same date, the Board's Decision and Order was served upon Respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Respondent's counsel.

(3) Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the Board is certifying and filing with this Court a transcript of the entire record of the consolidated proceeding before the Board upon which the said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law and the Order of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and

transcript to be served upon Respondent and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the Order made thereupon a decree enforcing those sections of the Board's said Order which relate specifically to the Respondent herein, and requiring Respondent, its officers, agents, successors, and assigns, to comply therewith.

Dated at Washington, D. C., this 22nd day of March, 1956.

NATIONAL LABOR
RELATIONS BOARD,

/s/ MARCEL MALLET PREVOST,
Assistant General Counsel.

Certificate of Service attached.

[Endorsed]: Filed March 23, 1956.

[Title of Court of Appeals and Cause.]

STATEMENT OF POINTS UPON WHICH
PETITIONER INTENDS TO RELY

In this proceeding, the National Labor Relations Board will urge and rely on the following point:

The Board properly found that the respondent violated Section 8(a) (1) of the Act by demanding

that an employee surrender the executed union authorization cards he had in his possession, by prohibiting union activity during employee rest periods, and by requiring the removal of buttons denoting adherence to the rival union while permitting employees to wear the membership buttons of the incumbent union.

Dated at Washington, D. C., this 30th day of April, 1956.

NATIONAL LABOR
RELATIONS BOARD.

/s/ MARCEL MALLET PREVOST,
Assistant General Counsel.

[Endorsed]: Filed May 2, 1956.

[Title of Court of Appeals and Cause.]

RESPONDENT'S ANSWER TO PETITION
FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS
BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

Respondent, Essex Wire Corporation, a Michigan corporation, d/b/a Essex Wire Corporation of California, through its attorneys, Holt, Macomber & Graham, in answer to the Petition for Enforcement filed by the National Labor Relations Board, in the above-entitled case, replies as follows:

1. Respondent admits the allegations of Paragraph 1.

(2) Respondent admits the allegations of Paragraph 2, but does not admit the validity of the Board's decision insofar as it finds Respondent to have engaged in any unfair labor practice of any kind, and specifically denies that it was guilty of any unfair labor practice whatsoever.

Wherefore, Respondent prays this Honorable Court that it deny the Petition for Enforcement, and that it cause notice of the filing of this answer to be served upon the Petitioner herein.

Dated this 1st day of May, 1956, at San Diego, California.

HOLT, MACOMBER &
GRAHAM,

By /s/ WILLIAM H. MACOMBER,
Attorney for Respondent, Essex Wire Corporation
of Michigan, d/b/a Essex Wire Corporation of
California.

[Endorsed]: Filed May 3, 1956.

[Title of Court of Appeals and Cause.]

STATEMENT OF POINTS UPON WHICH
RESPONDENT INTENDS TO RELY

In this proceeding, the respondent, Essex Wire Corporation, will urge and rely on the following points:

It was improperly found by the Board that the Respondent violated Section 8(a) (1) of the Act in any manner whatever.

Dated at San Diego, California this 25th day of May, 1956.

HOLT, MACOMBER &
GRAHAM,

/s/ WILLIAM H. MACOMBER,
Attorney for Respondent, Essex Wire Corporation,
a Michigan Corporation, Doing Business as Essex Wire Corporation of California.

[Endorsed]: Filed May 26, 1956.